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S AND
HAMBERS
— p.40, p.48

The Dying Constitution — Antonin Scalia

NATIONAL REVIEW

How To Steal An Election

Rich Lowry
Harold Johnson

ABC, Lies, & Videotape

Thomas McArdle

Save The Nukes

Sam Cohen

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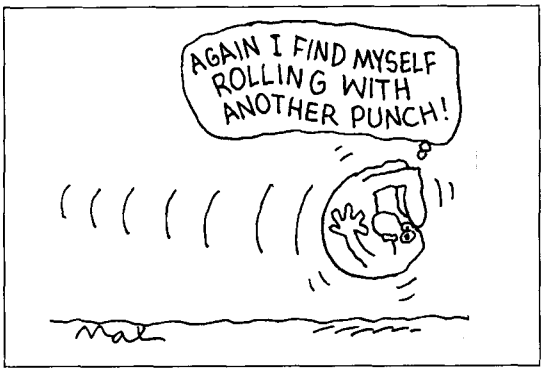

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LETTERS

Meaningless Acts

You urge Trent Lott and Newt Gingrich to pass a federal version of Proposition 209 ["Memo to: 105th Congress," Dec. 23]. Congress is way ahead of you. A federal version of Prop. 209 was enacted 33 years ago. It's called the Civil Rights Act of 1964. Prop. 209 merely quotes verbatim the words of the 1964 Act. These are the same words that Justices Brennan, Marshall, et al. construed to sanction affirmative action.

Perhaps a better suggestion for Messrs. Lott and Gingrich would be to re-enact the Civil Rights Act with the following addendum: "And this time we mean it."

William P. Rudland
Westlake, Ohio

Play Rach 3 Again, Sam

In his review of the film *Shine* ["Play Rach 3 for Me," Jan. 27], John Simon says that the Rachmaninov Third Piano Concerto is not "the summit of artistic greatness and pianistic difficulty" (as portrayed in *Shine*) but "a pleasant piece that professional players easily toss off." Opinions vary on the artistic merits of the Rachmaninov Third, but every professional pianist *I* know regards it as one of the two or three most difficult concertos in the standard repertoire.

Many distinguished virtuosos who played Rachmaninov's other concertos, among them Arthur Rubinstein, Sviatoslav Richter, Arturo Benedetti Michelangeli, and Gary Graffman, have steered clear of the Third, and some were honest enough to admit that it was because they were intimidated by its technical demands. I would be interested to know exactly which pianists of Mr. Simon's acquaintance claim to "toss off" the Rachmaninov Third. I would be even more interested to know which ones would make the same claim while strapped to a lie detector.

Terry Teachout
New York, N.Y.

The Third is the composer's longest piano concerto, and perhaps the loudest—he did compose it for his American tour. Yes, it makes technical demands: in one of his four recorded versions, Ashkenazy (with Previn) takes almost 46 minutes to negotiate it; however, Horowitz (with Reiner) rattles it off in 37½. That Michelangeli did not play it proves nothing: his repertoire was ludicrously tiny. As for Graffman, he was forced to quit early. The other two Mr. Teachout cites may just not like the piece. Rachmaninov himself later made severe cuts, and rewrote the cadenza. What I should have made clearer is that it does not make severe intellectual *demands on the performer: "easily tossed off" should read "can be mastered without too much trouble" by a virtuoso. Indeed, there are some 15 CD versions on sale right now by pianists from the august to the relatively mundane, such as Helfgott (the hero of the movie) himself.* —JS

Bay of Disaster

I was glad to see Col. Jack Hawkins's account of the Bay of Pigs ["Classified Disaster," Dec. 31]. Despite efforts by partisan chroniclers and politicians to gloss it over, the Bay of Pigs remains an embarrassment to JFK's New Frontier and a shameful defeat for U.S. foreign policy.

Unlike Col. Hawkins I didn't wait 35 years to publish my Bay memoir, *Give Us This Day* (Arlington House, 1973), though I probably should have. It was attacked by Administration spin doctors and most of the print media, who had their own pro-JFK agenda. However, the *facts* of my exposé have never been seriously challenged.

In 1960, with President Eisenhower's approval, I was assigned the Sisyphean task of melding disparate Cuban exile political leaders into a covert government-in-exile. In its name, volunteers for the invasion were recruited and dispatched to distant training sites. An experienced combat officer, Col. Hawkins ("Haskins" in my book) had little patience with the "Cuban politicians" who were my charges, and in whose name our operation was conducted.

Nevertheless, the assault Brigade was well trained and eager to invade, for which Col. Hawkins is due great credit. And despite the (fatal) limitation on air strikes against Castro's air force, none of us expected the Brigade to be abandoned and left to Castro's ferocious reprisals. That abandonment was seen worldwide as a defeat for the U.S.; it emboldened Khrushchev to put nuclear missiles in Cuba. It also became a precedent for U.S. abandonment of loyal allies in later conflicts.

The careers of Allen Dulles, Dick Bissell, and other CIA officers were sacrificed to the New Frontier's mantra that CIA misled the President and was responsible for the disaster. But as Col. Hawkins points out, nothing could be further from the truth. And as Winston Churchill remarked after Britain's Suez debacle, "I am not sure I should have dared to start; but I am sure I should not have dared to stop." Sage words from one who understood the incomparable value of victory and the tragic consequences of defeat. It is human nature to try to extract something even minutely positive from disaster, but those lessons the Bay of Pigs operation yielded remain ignored by our national leaders.

E. Howard Hunt
Former CIA officer
Miami, Fla.

Thorny Beliefs

In your reference to Leo Strauss ["The War of the Roses," Dec. 31], you say that "It was a wisecrack, in Straussian circles, to say that he thought everyone should believe in God (for utilitarian reasons) except himself (he knew better)." I have live in "Straussian circles" since 1950 and have never heard anyone utter that remark, or anything like it. To say nothing more—and, believe me, there is a lot more to be said of a man who devoted so much of his time to a careful and respectful study of the Bible—Professor Strauss was not one to treat belief in God in so frivolous a manner, or to cause his students to do so.

Walter Berns
American Enterprise Institute
Washington, D.C.

Keep Trial by Jury!

A district attorney elects to try O. J. Simpson in a venue where the jury will be predominantly black, instead of where the crime occurred and the jury would have been predominantly white, then assigns prosecutors to the case with apparent orders not to bring on too much evidence, so as not to seem racist to the media. Then comes the predictable acquittal—and *NR* calls for the repeal of the rights of a U.S. citizen to have a jury trial, not to be compelled to give testimony against himself, and not to be tried twice for the same crime ["O.J. and Us," Dec. 23]? Check your tub—there's no baby left.

The thousand-year-old jury system presupposes a prosecutor who is actually trying to win the case. The second trial well illustrates that a conviction could easily have been obtained by a diligent attorney in the venue where the crime occurred. It would truly be a crime if a further result of Mr. Garcetti's bumblings were the repeal of the Bill of Rights. No justice system is perfect. Our framework comes close, but it must be manned by competent people. Please attack the incompetent people, not the system they betray.

Saul E. Kerpelman
Baltimore, Md.

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In Tennessee, Britanny Johnson and her mother, Kathy, attend classes together through Families for Learning, a program sponsored by Toyota.

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FROM THE EDITOR

Unfitting News

■ When Rich Lowry wrote his first *NR* article on vote fraud (June 17), he was broaching an almost forbidden topic.

When he returned to it in "Louisiana Vote Purchase" (Dec. 23), he was still alone in the national and even the conservative press in examining the blatant stealing of a Senate seat.

The evidence of fraud that Mr. Lowry details in his latest (p. 20) is so overwhelming that the Mainstream Press has been forced to examine it as well. There is now a sporting chance that there will be a second election so that Louisiana's somnolent voters may get the senator they elected rather than the senator they deserve.

But it is still worth asking the question: Since stealing elections is democracy's version of sacrilege—the moral equivalent of a coup—why have America's institutions so studiously ignored it?

The answers are disquieting.

First, because vote fraud seems to involve minorities, illegal immigrants, and poor people disproportionately, the GOP is terrified of complaining about it.

Second, because vote fraud involves minorities, etc. disproportionately, and because it usually benefits Democrats, the Democrats are not anxious to enquire into it either.

Third, because vote fraud involves minorities, etc. disproportionately, usually benefits Democrats, and in the two latest cases has awarded victory to telegenic women, the media see it as a sort of villainless crime. Indeed, the press usually reports Republican allegations of such fraud under some such heading as "Sore Loser—see page 36."

And, fourth, because vote fraud involves minorities, etc. disproportionately, usually benefits Democrats, currently elects telegenic women, and is glossed over by the watchdog press, the Justice Department frequently intervenes to prevent not fraud, but measures against fraud, lest they have a "disparate impact" on minorities, etc.

That leaves protecting electoral purity to groups like Karen Saranita's Fair Elections Group (see Harold Johnson, p. 22). And, of course, to *NR*'s own correspondent, who discovered a rich new vein of scandal and chicanery.

Scribble, scribble, scribble, Mr. Lowry.

■ Kudos, however, to the *Boston Globe* for establishing that President Clinton had flip-flopped on immigration reform in return for foreign contributions to the Democrats arranged by the efficient Mr. Huang.

As *NR* reported at the time, Mr. Clinton had originally accepted the Jordan Commission's proposals for a lower total of legal immigrants annually—and for a stricter definition of family members whom a legal immigrant is entitled to import. But when the immigration bill came before Congress, the White House switched sides.

We now know why.

This is a major scandal—potentially bigger than Whitewater because it involves the President's breach of duty *as President*. And what could be more serious than selling the right to live in America to outside financial interests?

The GOP, however, is badly positioned to exploit this. To begin with, one-third of House Republicans joined Democrats in voting down these reforms. That was no momentary spasm. GOP leaders have consistently discouraged the reform of legal immigration—focusing instead on the numerically less important question of illegal immigration. The Christian Coalition, ignoring the views of its own supporters, advised Congress to reject the reforms. And the new Republican Senate appears no more inclined than its predecessor to consider serious reform.

In short, GOP and conservative elites have closed ranks with their Democratic and liberal counterparts to prevent any serious discussion of the immigration reforms desired by the great majority of the American people.

Characteristically, only the Democrats got paid for it. —JOHN O'SULLIVAN

NATIONAL REVIEW

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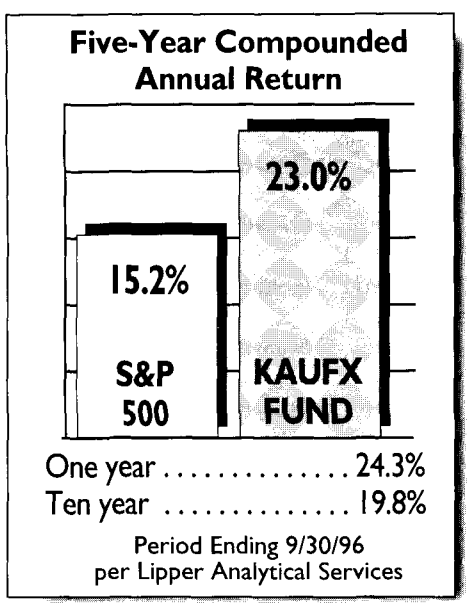

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FOR THE RECORD

■ **Newt Gingrich** seems to have survived ethics battle, but House Republicans might yet have occasion to remember a Gingrich statement from 1984: "We are committed to ideas, not to men or a man." The future Speaker was then warning about excessive loyalty to **Ronald Reagan**. . . . Gingrich was saved by overzealousness of Democrats. "The last week has been full of tactical blunders for the House Democrats," admitted even **George Stephanopoulos**, "there's no question." Stephanopoulos, meanwhile, has rough start in academia. On panel at Columbia University, where he is visiting professor of political science, Stephanopoulos was saying: "Inequality has declined. The poverty rate has gone down. A . . ." When moderator interrupted to say: "The election is over." . . . Asked if House Republicans will punish Rep. **Jim Leach** (R., Iowa) for voting against Gingrich, Majority Whip **Tom DeLay** (Tx.) says, "We certainly are. We're going to make him continue to be chairman of the House Banking Committee." . . . In wake of Gingrich phone-conversation flap Omnipoint took out full-page ad in *New York Times*: "Dear Mr. Speaker: If you'd rather not have your phone conversation overheard and printed word for word in the newspaper, next time use an Omnipoint wireless phone instead of a cellular phone."

■ In debate with *American Lawyer*'s **Stuart Taylor Jr.**, whose exhaustive analysis brought new credibility to **Paula Jones** case, left-wing USC law professor (and former **Dukakis** campaign manager) **Susan Estrich** responds to charges of feminist hypocrisy: "You believe in principle. I believe in politics. Here is what I learned in law school. I learned that if you push any legal question hard enough and far enough, principle turns into politics. No avoiding it." . . . In *New York Times*, **Barbara Ehrenreich**, playing against type, raps feminists for double standard: "To regain their moral consistency, feminists and progressives will have to end their co-dependence on Mr. **Clinton**." . . . National Organization for Women's **Patricia Ireland** says, "If the judge or the jury rules that President Clinton did engage in this kind of violation of Paula Jones's civil and constitutional rights, I think it would raise a very serious question of whether he could continue as President of the United States."

■ In new tell-all book, disgraced Clinton advisor **Dick Morris** takes credit for almost every Administration accomplishment over last two years, including peace in Bosnia. According to Morris, U.S. negotiator **Richard Holbrooke** told him that without his help, "I would never have been able to get it done." . . . Asked why Republicans did not respond to Clinton ad blitz in mid 1995, Morris says, "That is the question of the election of 1996. There is some person in the Republican Party that made the decision not to spend the cash they had on hand to answer advertisements we were putting on. I'd love to meet him and shake his hand and thank him. He's the guy that cost them the election."

■ Horrors! *Village Voice* wrings hands over abstinence program passed as part of last year's welfare bill: "If all goes according to plan, by the turn of the century more schoolkids will be chaste than ever before." . . . An annual survey of college freshmen finds that approval of casual sex has dwindled to new low. Less than 42 per cent think it's OK, down from a high of 52 per cent in 1987. Support for legal abortion drops for fourth straight year (56 per cent favor it, down from 65 in 1990). . . . Republican National Committee offers ten tips for incoming DNC Chairman and former Colorado Gov. **Roy Romer**. Among them: put bunk beds in **Lincoln** Bedroom to double your big-donor file; look under lobby sofa cushions for millions in Indonesian rupiahs; please add us to your mass fax list so we don't have to wait for **Al Hunt**'s column to read your press releases.

"They have only liberal columnists."

■ Dep. Pres. **Thabo Mbeki** says South Africa will make a final decision to sell arms to Syria, going against American embargo on Damascus for state terrorism—despite $80 million in U.S. aid. . . . Forty-nine years after he was murdered by a fanatic, **Mohandas Gandhi**'s ashes will leave a bank vault to be distributed in Hindu fashion in the waters of India's holy rivers. . . . Nation of Islam leader **Louis Farrakhan** made his third trip to Libya in a year even though Treasury warned he cannot accept gift of $1 billion supposedly offered by dictator **Muammar Qaddafi**. . . . Youth wing of Germany's Christian Democratic Union has stirred up Hollywood set with its campaign against Scientology cult. **Dustin Hoffman**, **Goldie Hawn**, 31 other Hollywood types sign full-page ad comparing treatment of Scientologists in Germany today (e.g., unsuccessful boycott of **Tom Cruise** film *Mission: Impossible*) to persecution of Jews before WW II (e.g., Kristallnacht). **Constantin Costa-Gavras**, who had signed open letter intending to support civil liberties, withdrew signature after actually reading letter.

■ National Journalism Center, which offers media training in context of traditional values, is accepting applications for spring internship program. The 12-week session starts Feb. 17; deadline for applications is Feb. 7. For more information contact **M. Stanton Evans**, **Mal Kline**, or **Chris Galm** at 800 Maryland Ave., N.E., Washington, D.C. 20002; phone: 202-544-1333; fax: 202-544-5369. . . . Erratum: Correct number for information on The Independent Women's Forum's Feb. 12 dinner in Washington, D.C., in honor of **Ward Connerly**, is 202-833-4553. Ask for **Barbara Ledeen**.

■ Welcome back: Three-time Indianapolis 500 winner **Bobby Unser** barely survived two-night ordeal in the South San Juan Wilderness on New Mexico–Colorado border after his snowmobile broke down in a blizzard. Unser has been cited for violating federal Wilderness Act and could face six months in jail and $5,000 fine.

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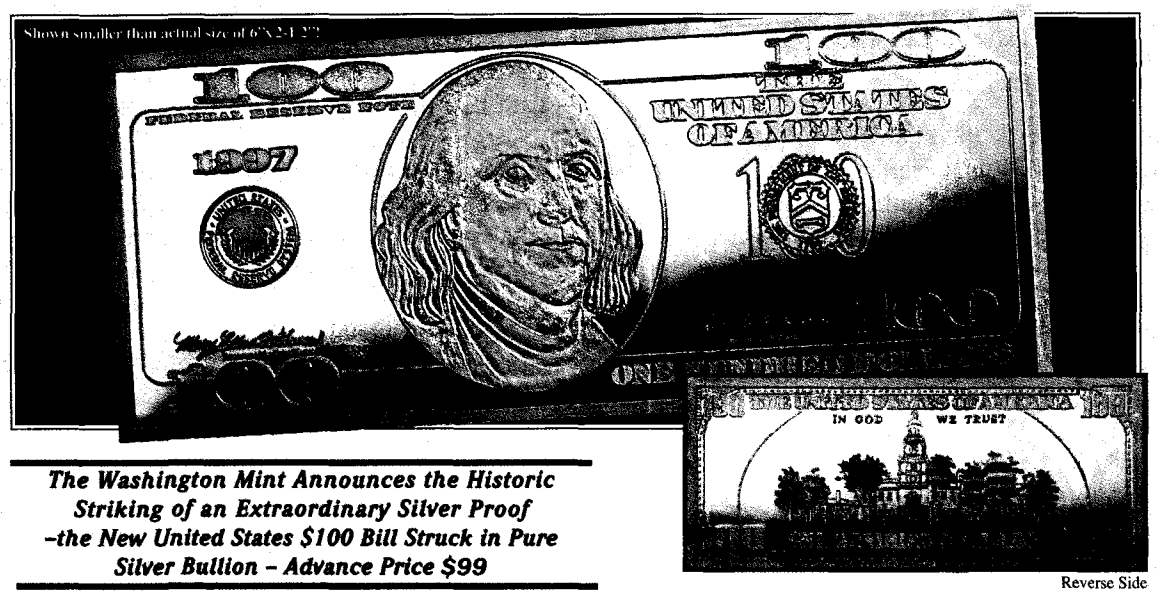

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THE WEEK

■ Why did Rep. Jim McDermott go through all the trouble of intercepting Republicans' phone calls with a scanner, when he could have just looked up the transcripts in their FBI files?

■ Spectators shivered, the choir sang "Amazing Grace" and "America," and William Jefferson Clinton was sworn in at the nation's 53rd presidential inaugural. In a speech which, for all its brevity, was heavy with boilerplate, Mr. Clinton did enounce his political position. "Government is not the problem, and government is not the solution. . . . We need a government humble enough not to solve all our problems for us, but strong enough to give us the tools to solve our problems for ourselves." Possession-theories of his political success ignore his characteristic tropism toward a pragmatic-sounding centrism, a spot to the right of left. In practice, Clintonism may be as porous as a colander (what tools? what problems?). But the political counterarguments have to be made. If Clinton's enemies will not make them, they face a frustrating four years.

■ When Congress passed the welfare bill last year, skeptics warned that Republican governors, chafing under the bill's work provisions and spending restraints, would become a major obstacle to its implementation. Sure enough, GOP governors led by George W. Bush (Tex.) are already agitating to reverse the bill's cutoff of Supplemental Security Income benefits for legal immigrants. Any backtracking on this provision would be a substantive and political disaster. There are now more aged non-citizens than citizens on SSI; the number of non-citizens on SSI has exploded from 370,000 in 1989 to more than 800,000 today as immigrants have taken advantage of this welfare spigot. Republicans were right to shut it off. Moreover, any fiddling with the SSI provision will go through the Senate Finance Committee, where Republicans have nominal control only (liberal Sens. Jim Jeffords and John Chafee account for the GOP's two-vote margin on the committee), which means that any changes on SSI will be accompanied by other "fixes," such as expansions of Medicaid coverage and new mandates on the states. Congressional Republicans should send a clear message to their brethren in the governors' mansions: Hands off welfare reform.

■ The new welfare bill limits the amount of food stamps that able-bodied, childless adults under age fifty who work less than twenty hours a week may receive. New York Gov. George Pataki has not sought a waiver to stop these cuts in his state, prompting this dispatch from the *New York Times*: "Advocates for the poor and religious leaders . . . are particularly disturbed, they say, because food stamps, unlike other welfare programs, are paid for solely by the Federal Government." Liz Krueger, associate director of the Community Food Resource Center, asks, "Isn't the job of a governor to make sure he maximizes federal revenues?" Isn't that in one of the *Federalist Papers*?

■ Proponents of tax reform have from time to time questioned the political wisdom of trying to reform the tax code with one bill. A proposal by Alan Reynolds and Stephen Moore transforms the politics of tax reform by applying the free-market principles of choice and competition. They would leave the current tax code alone, but allow anyone to opt out by paying an "alternative maximum tax," or MaxTax, of 25 per cent (with only one break, a credit for payroll taxes paid). It would be impossible to claim that this flat tax would raise *anybody's* taxes, and it would lower tax rates for millions of Americans. In addition, the difficult transition problems that have concerned technical analysts of tax reform would melt away. (Deductions would not have to be phased out; they would simply become optional.) Reynolds and Moore have managed to marry policy wonkery, political savvy, and conceptual elegance.

■ To clear his name (and do some good) after the Christine Keeler sex scandal, disgraced British war minister John Profumo worked for three decades with underprivileged boys in London's East End. Spiro Agnew waited 21 years before his bust was installed in the Capitol alongside those of the other former Vice Presidents. To restore his own reputation as a brilliant political advisor, fetishist and adulterer Dick Morris required six days, and he now dominates the Sunday-morning talk shows, where he promotes his 359-page memoir. If present trends continue, public officials caught in ethical scandals will some day

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need no rehabilitation time at all. For instance, a President convincingly accused of sexual harassment might skip directly over the damaging allegations and proceed with the duties of his office as if nothing had happened.

■ Five months after becoming two of the first four women to enter the Citadel, Misses Messer and Mentavlos are leaving. They were forced to sing obscene songs and drink iced tea until they vomited; their sweatshirts were doused with nail-polish remover and ignited. But this is just this kind of behavior that has made the Citadel famous. As appalling as it may seem, setting freshmen on fire is apparently a tradition in Echo company, of which the girls were members. In her farewell statement, Miss Mentavlos asked her male classmates to "take a long look at how they view their girlfriends, wives, mothers, sisters, and daughters." However, by attending the Citadel, Miss Mentavlos endeavored to remove herself from those categories, and from the respect accorded to them. It seems that her fellow students indulged her.

■ In his syndicated *Washington Post* column, Mark Shields teases *NR* and the *Wall Street Journal* editorial page for having made "bum predictions" about the bad effects of President Clinton's 1993 tax increases. Shields's rebuttal consists of listing positive economic trends that followed the tax increase, which he assumes must therefore have been caused by it. Those trends could use some perspective. The President's vaunted "11 million jobs" amounts to 1.9 per cent growth each year—roughly the average rate for the last 25 years, *including recessions*. It's a far cry from the 2.4 per cent annual job growth registered during the low-tax years of 1983–89. Interest rates were falling globally before Clinton's tax; they reversed course soon after it passed, and resumed falling only around the time the Republicans took Congress. The deficit is down mostly because of that fall in interest rates, plus reckless defense cuts and the winding down of the S&L bailout. Tax revenues have increased because of the economic upswing that was well under way when Clinton was elected, but compared to the pre–tax-hike years, revenues are a smaller proportion of an economy that is growing more slowly. And Shields is counting his chickens too soon: the final installment of Clinton's tax hike came in April 1996. Already there are signs that the economy is running out both of workers and of savings. (If the Administration responds by trying to talk the dollar down, get ready for a hard landing.) Shields concluded his column: "It doesn't hurt to admit publicly you have been wrong." Tell it to the President.

■ In the ongoing battle over Wisconsin's schoolchildren, a state judge, Paul Higginbotham, has again blocked the use of state funds for a voucher program that includes religious schools. His ruling acknowledged the "sad plight of Milwaukee's public-school system" ("sad" is a mild word for a system in which only one-third of the students entering high school—and only one-quarter of the black students—graduate). But Judge Higginbotham found, predictably, that using tax dollars for anything connected however remotely with religion was unconstitutional—ignoring the facts that a) nowadays, the religious content in most parochial schools is distinctly secondary; and b) the public schools themselves inculcate a religion, though not one having anything to do with the God of anyone's fathers. Judge Higginbotham's word is not the last one: the Milwaukee-based Parents for School Choice will take the case all the way to the Supreme Court if necessary; meanwhile PAVE (Partners Advancing Values in Education) will continue to provide private vouchers to as many children as it can.

■ An "Inaugural Gala" on January 22 featured Vice President Al Gore as the keynote speaker and Tipper Gore as presenter of a Lifetime Achievement Award to Robin Chandler Duke of the National Abortion Rights Action League. Pretty brinky to use "lifetime" in an award to a person whose "achievement" was campaigning to shorten millions of lifetimes to nine months, or less.

■ "I am of Ireland, and the Holy Land of Ireland . . ." Whether one thinks of Ireland as a holy land or, with some of her angrier sons, as a "priest-ridden nation," one tends to think of her as a Catholic country still. John O'Sullivan's report in these pages a few years ago that Dublin was now scarcely distinguishable from any other European capital came as a shock. But not long afterward voters approved a constitutional change permitting divorce, and the first divorce has now been granted. Banning divorce doesn't necessarily keep marriages intact, as witness the tens of thousands of long-separated couples who signed up to obtain divorces as soon as the referendum passed. But one hopes that in moving into this new era, Ireland will cast an eye (not cold) on the wreckage that America's current no-fault laws have caused, and go slow.

■ Mexico pays its debt to the U.S., ahead of schedule; we make a cool $500 million in interest; investor confidence

Rubin Goes Hysterical

Please don't let them call the tabloids
When they phone his shrink;
Balanced budgets by amendment
Drove him to the brink.
Lots of gentlemen go bonkers
(Look at George the Third),
But it's best to pad his quarters
If he plays Big Bird.

—W. H. VON DREELE

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is restored. Is it too good to be true? In a word, *sí*. As anyone who has spent time there recently can attest, Mexico is more chaotic than ever. Drug trafficking, violence, and official corruption have never been worse, and despite the rah-rah boosterism that permeates Wall Street generally—and the *Wall Street Journal* in particular—Mexico hasn't begun the privatization and deregulation needed to get its economy moving again. Virtually all the money used to pay the U.S. was borrowed from other lenders at exorbitant interest rates. Our bailout of Mexico two years ago meant, in effect, that we guaranteed the loans Mexico used to pay us off. Meanwhile, the Mexican peso is again overvalued, and the current-account deficit is growing. It may soon be time for another successful rescue.

■ Until recently, no one would have bet that Canadian Prime Minister Jean Chrétien and his Liberal Party would not be easily returned to office in the election expected this year. But this month, Chrétien's government was forced to make a public apology to Progressive Conservative former Prime Minister Brian Mulroney. In a letter to Swiss government authorities, the Chrétien government had charged Mulroney and two others with accepting $3.75 million in kickbacks from the sale of Airbus passenger planes to the Canadian national airline in 1988. The accusation was then leaked to the media by the Royal Canadian Mounted Police. While Mulroney is widely said to have presided over the most corrupt government in recent Canadian history, the Liberals have been unable to provide evidence linking him to the Airbus scandal, and they now stand accused of using state power against a political opponent. The right-wing populist Reform Party, which stresses government integrity, is well positioned to benefit and expand its support beyond its western base. With unemployment remaining stubbornly at 10 per cent (despite Chrétien's promise of "jobs, jobs, jobs"), defeated Liberals may soon swell the figures.

■ After so much bad news from the academy, it is a pleasure to hear something very different. At Dartmouth there is traditionally a Christmas-tree-lighting ceremony in the middle of the campus. The Glee Club turns out to sing carols, and many students join them. This December, the administration decreed that no songs with any religious content would be sung. The Glee Club was obliged to make do with "Frosty the Snowman" and "Rudolph the Red-Nosed Reindeer." The next night, however, the Glee Club appeared at the tree unofficially and, joined by hundreds of students, sang "Silent Night," "Hark! the Herald Angels Sing," and "God Rest Ye Merry, Gentlemen." This was not the sort of Free Speech that Mario Savio had in mind, no, not at all.

■ The audio of *It Takes a Village* has been nominated for a Grammy in the category of "spoken word or non-musical record." The book-on-tape is recorded in the First Lady's own voice (if not words).

■ Seen in New Orleans: "I voted for Mary Landrieu three times and all I got was this lousy T-shirt."

■ Sam Tanenhaus's new biography of Whittaker Chambers reveals (see p. 50) that Chambers was considered as a translator of *Remembrance of Things Past*. Good thing they didn't use Alger Hiss. "I do not remember a man by the name of M. Charles Swann."

Clinton's Medicaid Shoe

It fell like a rock in a canyon,
Confirming Newtonian laws.
John Dingell turned waxy, while Waxman
Performed his impression of Jaws.
Republicans looked at the ceiling
Or studied a smudge on the rug.
The liberals, going ballistic,
Could later, God willing, go, Glug.

—W. H. VON DREELE

The Pursuit of Newt

IN HIS inaugural address, President Clinton called on Washington to give up "petty bickering and extreme partisanship." Tell that to the Newt posse.

The spirit of the hunt for Newt Gingrich was captured by the episode of the taped phone call. John and Alice Martin, a Florida couple (and, incidentally, Democratic activists), claimed that, while they were Christmas shopping, the scanner in their car picked up a phone conversation among Republican congressmen discussing how to respond to the Ethics Committee. The tape the Martins made was given to the press, and, for the first news cycle, headlines celebrated the citizen snoops, and condemned Republicans for violating the spirit of Gingrich's deal with his accusers, which required him (in return for suffering a mere reprimand) to suffer in silence.

Then someone noticed that taping phone conversations is, well, illegal. So is disseminating them, if one knows that they were illegally acquired. The FBI, prodded by Rep. Henry Hyde, announced that it would look into the matter. Rep. Jim McDermott (D., Wash.), the Gingrich-tormentor who helped make the tapes public, was forced to recuse himself from the case (McDermott sits on the Ethics Committee). Angry Republicans called for him to be expelled from the House and spoke of knocking Gingrich's punishment down to a letter of reproval. Then came the report of special counsel James Cole, calling for a reprimand and a penalty of $300,000.

The penalty is merely punishment for Gingrich's book

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Japan and the Challenge of Global Citizenship

MYTH... Japan has not assumed a leadership role commensurate with its economic might.

FACT... Japan has been steadily increasing its global aid and assistance activities. So much so that since 1991, Japan has been the world's largest provider of foreign aid.

- In 1996, Japan earmarked some $11 billion for overseas development assistance. Projects included everything from funding peace-keeping operations in the Middle East to feeding the hungry in Rwanda.

- As part of a broad bilateral program of aid cooperation launched in 1993, the U.S. and Japan have helped combat AIDS in parts of Africa and Asia and are supporting population-control efforts in such nations as India and the Philippines.

- In the private sector, Japan's non-government organizations, or NGOs, are helping people in some 100 countries with projects that include sending medical teams to Asian and African countries and promoting recycling and other environment-friendly projects in 16 countries across the globe.

- Japanese companies are active members of the communities where they do business. In the U.S., for example, Toshiba, in cooperation with the National Teachers Association, has developed an innovative and widely-praised science competition for teams of primary and secondary school students.

- According to a recent study, 80% of Japanese affiliates in the U.S. are involved in community-related activities.

These and other Japanese public and private sector initiatives are helping lay the foundations for a better global future.

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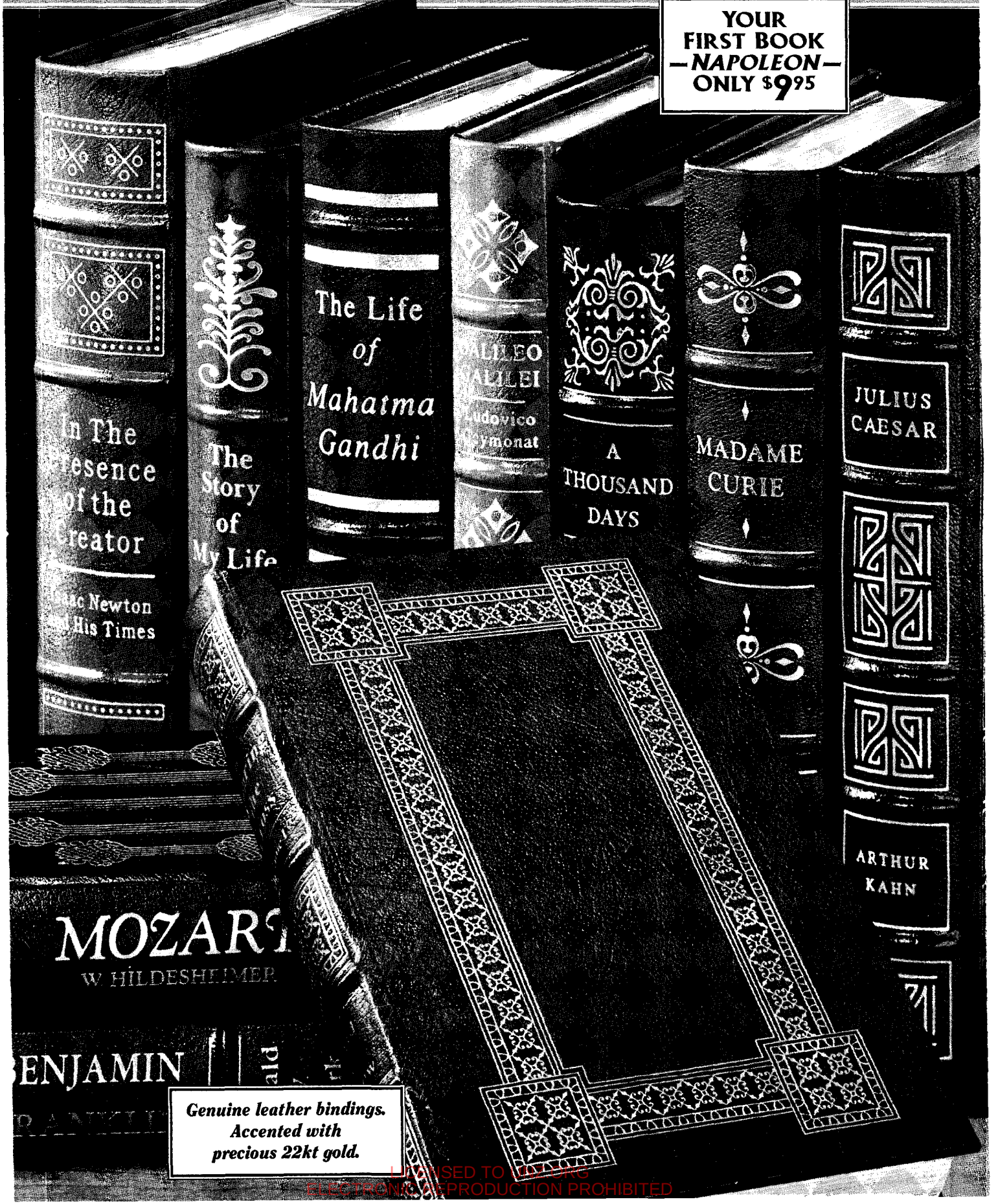

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Muhammad	*John Marshall*	*Winston Churchill*
Christopher Columbus	*Wolfgang Amadeus Mozart*	*Alexander Graham Bell*
Leonardo da Vinci	*Napoleon Bonaparte*	*Albert Einstein*
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Elizabeth I	*Abraham Lincoln*	*John Maynard Keynes*
Galileo Galilei	*Charles Dickens*	*Charles DeGaulle*
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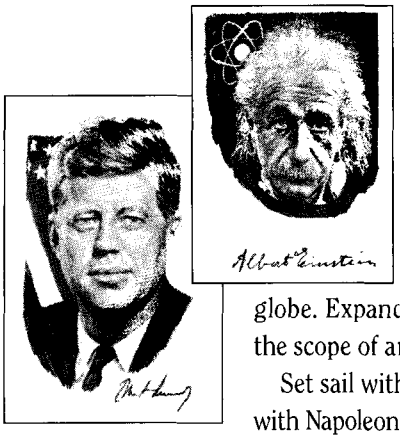

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deal (the $4.5 million he won in his salad days but forwent, not the $400,000-plus he has actually collected). Since envy is the driving force behind much social and economic legislation, it is not surprising that it should govern lawmakers' dealings with one another. The call for a reprimand, however, reflects the uncomfortable realities of the case. While it is true, as even the *New York Times* admitted, that an average citizen caught in a similar infraction would be told by the IRS to go and sin no more, the Speaker is not an average citizen. He is familiar with the mechanics of fundraising; he should have been more careful. Similarly, the distractions of other business, and the absurd multiplicity of the charges brought against him by Democratic hell-hounds, plausibly explain the misinformation he gave Congress. But congressmen, according to Newt Gingrich's own pronouncements, must be held to high standards.

The roller coaster of the last two weeks shows how wan and blanched Newt Gingrich's character as a leader is. He has survived, but his resistance is low. How does he build it back? By doing the things that raised him up in the first place. His critics say he rose by tearing down his Democratic predecessors, and they depict his current straits as poetic justice. This is wrong. Gingrich helped bring in a Republican House by articulating an alternative vision to liberal business-as-usual, and to Republican acquiescence. *NR* regretted the lacunae in that vision (an Opportunity Society should include equal opportunity under the law, which means an end to affirmative action). But it is obvious that only a politician with a vision can prevail. President Clinton has one. Newt Gingrich will have to recover (and improve) his if he is to be more than a placeholder in the Speaker's chair.

Clinton Goes a-Courting

WHILE working at a registration desk at a gubernatorial conference in 1991, Paula Corbin was approached by an Arkansas state trooper who told her Governor Clinton wanted to see

Right Data

CRIME is down. Much has been made of that, especially in big cities like New York. For the nation, FBI statistics show a 9 per cent decline in the crime rate between 1990 and 1995; preliminary data indicate another drop in the first six months of 1996.

Criminologists are reaching for explanations. Some credit a change in drug habits, with crack users switching to heroin, which does not induce violent behavior and is fairly cheap these days. Former New York Police Commissioner William Bratton insists policing is more effective. Clamping down on minor offenses—the Broken Window thesis—seems to have squelched more serious crime.

But demographic trends clearly explain much. Crime rates exploded in the 1960s and 1970s as baby-boomers began to enter the high-crime ages. After rising nearly 80 per cent between 1960 and 1980, the number of white males in high-crime ages started to decline. This demographic shift contributed to a modest decline in crime rates. Then, in the 1990s, the number of non-white males in these age groups also started to fall; crime fell sharply.

Unfortunately for the crime picture, younger boomers started having lots of babies in the mid 1980s. The breeding blip means that we now have 40 million children under ten—the largest number in that age group in more than a generation. By 2010, according to Census Bureau estimates, the population of males in high-crime ages will be 21.9 million, or 16 per cent higher than at the peak of the crime wave in 1990. According to John DiIulio, we can expect at least 6 per cent of these young males (1.3 million) to become high-rate offenders and account for half of all serious crimes committed by their age group.

DEMOGRAPHIC DYNAMITE?

	Crime Rate*		Males in High-Crime Ages (15 to 24)	
	All Crimes	Violent Crimes	White	Non-White
1960	1,123	159	10.4 mil.	1.5 mil.
1980	5,950	597	18.1	3.4
1990	5,820	732	14.2	4.6
1995	5,278	685	14.7	3.6
2000e	?	?	15.5	4.0
2010e	?	?	17.0	4.9

* Reported crimes per 100,000 inhabitants.
Sources: FBI, Census Bureau.

Of course, demography needn't be destiny. Kids could learn to just say no. The bad news, however, is that today's smaller cohort of male youth is more prone to crime than its elders were at the same age. Among non-white males under 18, for instance, aggravated-assault rates are 80 per cent higher now than a decade ago; rates have continued up over the past few years even as the overall crime rate has declined.

As for incarceration, the prison population has more than tripled since 1980, to 1.1 million. Average prison stays have declined, however. As a result, the number of ex-prisoners walking the streets on parole or probation has increased from 1.3 million in 1980 to nearly 4 million. About a third of all those arrested for violent crimes are on probation, parole, or pre-trial release at the time of their arrest.

The fact is, only a small fraction of violent criminals ever end up in prison. DiIulio does the math: 10.3 million violent crimes in 1992; 641,000 arrests; 165,000 convictions; after plea bargaining, 100,000 sent to prison. In effect, only one person is imprisoned for every 100 episodes of violent crime. On average, it costs about $25,000 a year to keep a convict in prison. Building a maximum-security prison can run $100,000 a bed. On the other hand, a Justice Department report released in 1996 put the cost of crime at $450 million per year in medical bills, lost days from work, emotional trauma—and lost life. Other research shows that incarcerating one additional prisoner prevents between 12 and 21 additional crimes a year. Demographic trends aside, a convincing argument can be made for building more prisons.

—ED RUBENSTEIN

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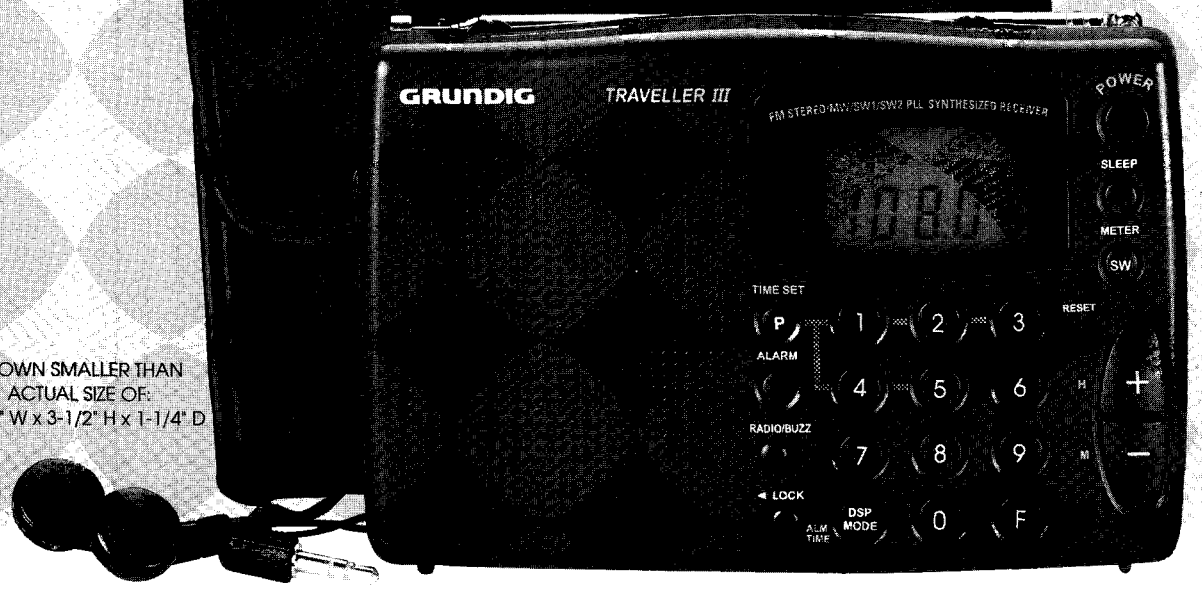

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Inaugural Fever

Like the ball Poe describes in detail,
Where the dancers turn red as they sail
Through gavottes on the floor
With a bug they ignore,
They rocked on, some in jail, some on bail.

—W. H. VON DREELE

her. Miss Corbin visited Clinton in his private suite, left quickly, and complained to friends that he had made a rude sexual advance. None of this is seriously disputed. Given Mr. Clinton's reputation for Don Juanism, it is easy to believe Paula Corbin Jones's account of what happened behind closed doors: the governor told her that he was good friends with her supervisor, then made a series of advances, each more gross than the last. His parting endearment was, "You are smart. Let's keep this between ourselves."

Sordid stuff, even by Bill Clinton's Dogpatch standards. As Stuart Taylor has persuasively argued in the *American Lawyer*, Paula Jones makes a stronger case against Clinton than Anita Hill ever made against Clarence Thomas. Clinton deserves all the lurid fallout that is now being generated in the mainstream press, which seems to have decided, post-election, that Mrs. Jones is a woman, even though her alleged harasser is a Democrat. Mrs. Jones's legal case nevertheless has flaws. Having missed the deadline for filing a regular sexual-harassment claim, she is alleging that Clinton violated her constitutional right to equal protection—a dubious application of that much-abused provision.

The merits of the case are not, however, the issue now before the Supreme Court. Rather the question is, Should the case be put off until after President Clinton has left office? The short answer is no. The rule of law must apply to everyone, the leader of the free world and a woman maligned by the White House press office alike. Mrs. Jones brought her suit, not, as her detractors would have it, as a publicity ploy, but to clear her name after a report in *The American Spectator* that cited a "Paula" as one of Bill Clinton's bimbos. She has a legitimate interest in the rapid disposition of this case. But as WFB points out elsewhere in this issue (p. 62), the Administration's claim that the President needs protection from having his time consumed by legal suits cannot be dismissed lightly. The case should go forward and depositions should be taken, but the President should not have to testify until his term ends.

Such a decision would satisfy neither Mr. Clinton nor his most bellicose critics. It has been fun to watch feminists squirming over the last few weeks, as reporters asked them to square their indifference to Paula Jones with their instant and vehement support for Anita Hill. But conservatives, who believe in constitutional fastidiousness and question the expansion of sexual-harassment law, should not be caught in hypocrisies of their own. They also should stop day-dreaming that scandals alone will deliver the land from Bill Clinton's canny posturing and smooth rhetoric. Goatish Presidents who served in the era of double standards—FDR, JFK—had to be challenged on political terms. Those are still the most meaningful terms of debate.

Unimpeachable Sources

NATIONAL REVIEW recently urged that a reasonable response to Judge Thelton Henderson's injunction upon the enforcement of Proposition 209, prohibiting racial preferences in California, was to impeach him. As works of scholarship by Raoul Berger (*Impeachment*) and Michael Gerhardt (*The Federal Impeachment Process*) demonstrate, an impeachable offense under the Constitution has always been understood as something different from merely an indictable criminal offense. "High crimes and misdemeanors" were viewed at common law as a category of *political* crimes against the state. For George Mason, the phrase encompassed attempts to "subvert the Constitution," while for Alexander Hamilton it was intended to include "injuries done to the society itself."

The Constitution provides limited guidance as to what precisely amounts to an impeachable offense. Clearly, however, Congress is entitled to define its own impeachment authority, and the principal checks upon this authority are the good conscience of congressmen in determining what constitutes a high crime and misdemeanor and the practical necessity of securing a majority vote in

The Real Line-Item Veto

THE Constitution is an antitrust act for government. Taken seriously, which means with full weight accorded to every clause, it ensures that each state has sovereignty within a wide sphere. This allows tyrannical possibilities, but it also puts the most effective check on those possibilities: the individual can move from a less free state to a freer one. Federalism, like Adam Smith's market, creates an "invisible hand" that promotes maximum liberty.

But the Supreme Court doesn't give equal weight to every clause of the Constitution. It has given the relatively narrow First Amendment far wider scope and force than the Tenth Amendment, which expresses the basic principle of federalism. In effect, the Court already exercises a line-item veto—over the Constitution.

—JOSEPH SOBRAN
Universal Press Syndicate

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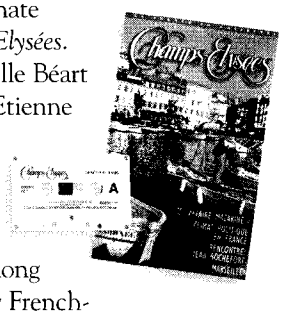
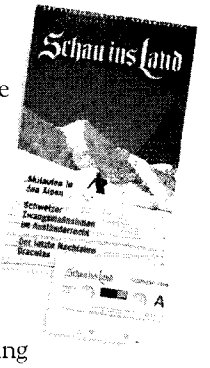
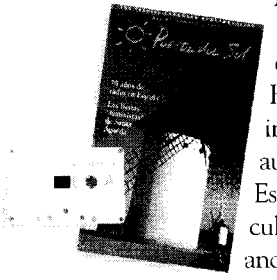


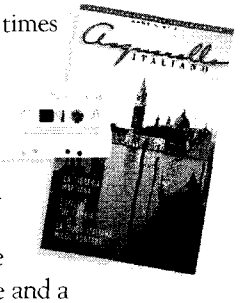
Schau ins Land: Professional journalists in Germany, Austria, and Switzerland provide a fascinating overview of German-speaking Europe every month in *Schau ins Land*. Recent programs have included interviews with tennis star Boris Becker and composer Karlheinz Stockhausen, as well as a visit to Vienna's Prater amusement park and a look at how the government's move from Bonn to Berlin is impacting the lives of federal employees.





Puerta del Sol: A talented production team in Madrid examines the colorful textures of Hispanic culture every two months in *Puerta del Sol*. Interviews with authors Carlos Fuentes and Laura Esquivel, a three-part series on the culture and heritage of Sephardic Jews, and a feature on the saffron harvest in La Mancha are just a sample of the intriguing segments on recent editions of this Spanish-language audiomagazine.

Acquerello italiano: Produced six times a year in Rome, *Acquerello italiano* showcases the vitality and style of contemporary Italy. The most recent program includes interviews with fashion designer Giorgio Armani and best-selling author Luciano De Crescenzo, as well as an update on the reconstruction of Venice's opera house and a profile of the separatist Northern League.



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the House and a two-thirds vote for conviction in the Senate. According to Gerald Ford, when he was leading the effort in the House of Representatives to remove Justice William O. Douglas from the Supreme Court for his ethical shortcomings and his outré politics, "an impeachable offense is whatever a majority of the House of Representatives considers it to be." Ford was right.

True, no federal judge has ever been impeached purely on the basis of his decisions—yet. But, as Judge Henderson's philosophical soulmates are wont to remark, the Constitution must respond to the times. The usurpation of power by the federal judiciary in recent decades has transformed our constitutional balance and now threatens to undermine self-government. If, as Hamilton remarked in the *Federalist* No. 81, the impeachment procedure is "alone a complete security" against the "supposed dangers of judiciary encroachments," why should it not be employed against judges who have subverted the separation of powers?

Even by recent standards of judicial usurpation, the abuse of power by Judge Henderson is breathtaking. Summarily overturning the judgment of several million Californians, he ruled that the Constitution compels race-conscious public policies and requires the state to categorize and reward people on the basis of pigmentation and ethnic background. House Republicans should find probable cause to initiate the impeachment process and hear the evidence. In due time, they can move on to other federal judges, as well as officials of the Executive branch. (Doris Meissner, Commissioner of the Immigration and Naturalization Service, comes to mind.)

Open Admissions

WHEN Sen. Spencer Abraham (R., Mich.) was elevated to the chairmanship of the Senate Immigration Subcommittee, the media event he planned in celebration backfired in a way that shouldn't happen to a Democrat. As he stood in Silicon Valley, claiming that the current immigration system benefits the high-tech industry, on the other side of the continent Michael Kranish of the *Boston Globe* was about to break the news that the Clinton Administration's abrupt abandonment last spring of its support for eliminating "sibling preference"—the automatic right of immigrants to bring in adult brothers and sisters—was sped by Asian campaign contributions raised by Immigrant of the Year John Huang. The link between wealthy special interests and the bi-partisan Beltway establishment's efforts to frustrate Americans' desire for immigration restriction could hardly be made more plain.

NR has many points of agreement with Senator Abraham. But we argued that his knee-jerk opposition to immigration reform made him an utterly inappropriate chairman of the Immigration Subcommittee. (He has already persuaded Senate Majority Leader Trent Lott to abandon immigration reform for 1997.) In his Silicon Valley speech, Sen. Abraham said that "those who wish wholesale reductions" in legal immigration—a group that RNC data show includes most Republicans—"are on the wrong course." He did not explain why Washington should continue second-guessing the American people on population size, driving it up some 50 per cent (140 million) above where it would otherwise be in 2050. Nor did he explain how the disproportionately unskilled immigrant inflow unleashed by the 1965 Immigration Act could benefit any industry, let alone Silicon Valley. Above all, he did not explain why he will not consider reform of the misnamed "family reunification" mechanism, which provided over half of 1996's nearly one million immigrants. (Only about 100,000 immigrants fell into the category set aside for skilled immigrants, which has been consistently unfilled in recent years.)

The GOP is heading for disaster on immigration. Po-

The Week in Verse

Though Presidents may tangle in cliché
They're statesmen for Inauguration Day;
Elect'rally they're saved from being drowned,
Washed up on some small patch of common ground.
From there they speak, and *Clinton* speaks so too,
Of what they hope and wish and dream they'll do
And show the fervency with which they care
With every breath of superheated air.
(Had *Fossett's* choice of time been opportune
He'd have had enough to power his balloon.)
Bill's wishful thinking's cornucopia
Stops short of nothing but *Utopia*.
Well might he find in this just what he says:
A *new land*, fashioned from *new promises*,
Where no more guns, no drugs, no atom bombs
Can harm our kids—nor yet their dads or moms.
Nor shall they hear (rise up, my heart, and sing!)
The sound of pols in *petty bickering*.
Come the *Millennium*, all such dispute
Withers away—that's once we're rid of *Newt*.
For, though it isn't broadcast to the nation,
My greatest *hope's* the *Lincoln* (Abe) *Foundation*
And "starving children"—*there's* the knockout punch,
With force of weight we gained from that school lunch!
Already he must pay three hundred grand
And eat the *Ethics* guys' stern "reprimand."
We'll pick him off—or weaken his control—
Where was I? Oh . . . *dark regions of the soul* . . .
And if the *Court* obligingly postpones
Her suit, or I can buy off *Paula Jones*,
Or *Starr's* inclined to think his bolt is shot,
I still might beat off that damned *right-wing plot*,
And I'll be safe for this term—maybe more,
For after me, you know, will come *Al Gore*.
So now they've found they're maybe not so smart.
That's progress— . . . *progress of the human heart*.

—JUVENAL

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litical parties that systematically insult their bases find that those bases go away. It happened to the Progressive Conservative party in Canada. It can happen here. Ominously, Dr. John Tanton, the ophthalmic surgeon who founded U.S. English and is currently chairman of the Federation for American Immigration Reform (FAIR), is already predicting that Senator Abraham will face a single-issue anti-immigration candidate when he runs for re-election in November 2000.

After Hebron

AS SOON as Israel and the Palestinians reached an agreement on Hebron, the Israeli government spread the word among its American friends that the deal was a good thing. Prime Minister Benjamin Netanyahu's coalition partner Natan Sharansky, a bona-fide hero from his years in the Soviet Union, had simultaneous op-ed pieces in the *New York Times* and the *Washington Post* defending the outcome. Even a die-hard like A. M. Rosenthal of the *Times* seemed persuaded by new information—publicly confirmed by the U.S. Government—that Israel alone will determine the extent of further "redeployments" still required under the Oslo accords.

Netanyahu has made significant concessions on matters large and small. Four-fifths of the city of Hebron is now turned over to Palestinian control, and joint arrangements are made for much of the rest. But events left Netanyahu no alternative. He had promised to live up to the specific commitments of his predecessors, and the redeployment in Hebron topped the list. He managed to contain the upheaval in his cabinet—suffering only one significant resignation, that of Benjamin Begin—and won an overwhelming 87 to 17 endorsement in the Knesset.

The obligations of the deal are reciprocal. The Palestinians promised—yet again—to draft a new National Covenant that does not call for the destruction of Israel; they promised—yet again—to crack down on terrorists. If true peace and security are to come, these commitments have to be kept this time. Netanyahu is embarked on a high-risk strategy. He has let it be known that he will accept a Palestinian state, but will bear down hard on the issues of its size and its powers, especially its military capability and foreign policy. He deserves a little help from his friends, pending some from his enemies.

NOTES & ASIDES

■ Dear Mr. Buckley:

Re your likening of Bill Clinton to "Franklin Delano Roosevelt in 1932, who railed against deficit spending, and proceeded to teach the world how to do it": In fact, FDR's deficits were comparable to Herbert Hoover's until 1942.

FDR promised to balance the budget in his 1936 campaign; when leaving Hyde Park after the election, he said he was going to Washington to carry out that pledge. As soon as he cut spending, the economy collapsed; growth was down by 19 per cent in two years.

The highest Reagan deficit was 6.3 per cent of GDP, higher than Hoover/FDR peacetime deficits.

As to the pattern of history, it is totally consistent:

—*All* our major depressions (1819, 1837, 1857, 1873, 1893, 1929) were immediately preceded by multi-year paydowns of national debt.

—Post WW II is the first era of chronic deficits/less than 50 per cent living in poverty.

—*All* recessions have been immediately preceded by deficit cuts relative to GDP.

—Deficit increases relative to GDP are followed by expansion (cf. Reagan).

Rewriting history to make it more politically interesting makes for good political theory but at great cost to accuracy. Admittedly, it is necessary to decide whether we have evidence, or two hundred years of unbroken coincidence. If the latter, it's a lot of coincidence.

Frederick C. Thayer
Professor Emeritus
Graduate School of Public and International Affairs
University of Pittsburgh
Pittsburgh, Pa.

■ Dear Mr. Buckley:

In your obituary for Alger Hiss, I was most interested in your offer of "one thousand simoleons" to a Hiss defender if his opinion survived the scrutiny of a lie detector.

I have independently discovered the efficacy of this approach and used it in the abortion debate. The response is similar: opponents change the subject.

It has occurred to me this device could be extended to a number of contemporary issues on which the liberals would prefer demagoguery or a mere exchange of words. Some examples: Did Republicans propose to cut Medicare? Did Reagan's tax cut result in greater revenues to the federal Treasury? Is a system of government-run education socialism?

In fact, might not your *Firing Line* debates replace *Jeopardy!* in the ratings if they were judged by a neutral panel and each of the losers had to write a check for "one thousand simoleons" to the charity of the winner's choice?

Cordially,
Thomas J. Ritter Jr.
Allentown, Pa.

Dear Mr. Ritter: A nice idea. Actually, I once proposed it in a column, though I threw in a little surrealism. My idea was that an infra-red polygraph would cause the lips of the speaker to turn blue on screen if he doubted the truth of what he was saying, yellow if he knew it to be false. No takers yet, but thanks for the reminder. Cordially,

—WFB

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CAPITAL SCENE

The Big Sleazy, Part II

RICH LOWRY

Roman Genn

WASHINGTON, D.C.

THE Louisiana Independent Federation of Electors, Inc. (LIFE) is arguably the most powerful political force in New Orleans. Operated by the city's mayor, the cocksure 39-year-old Marc Morial, and his political associates, it exerted a decisive influence in November's elections, putting a small army of workers on the street on election day. It is to monitor the activities of just such big-stakes political players that Louisiana and the Federal Government have campaign-finance laws. And it is exactly to escape such scrutiny that LIFE flouts all of them, failing to register or file reports with the Louisiana Board of Ethics, the Louisiana Secretary of State's office, or the Federal Election Commission.

LIFE is an outlaw political group at least in this sense—and perhaps in others as well. After months of combing through New Orleans election records and interviewing city residents, Republican Woody Jenkins's campaign has compiled a stunning array of evidence to suggest that Democrat Mary Landrieu's slim 5,788-vote victory over him in November's Senate race was tainted by widespread corruption, including the outright buying of votes.

Mr. Lowry is NR's national political reporter.

At the center of the alleged misconduct in Louisiana are LIFE and the well-heeled gambling interests that helped deliver New Orleans for Mary Landrieu by more than 100,000 votes. The Jenkins campaign conducted a dozen interviews with New Orleans residents—all of them living in the inner city—who say they were promised cash for voting. With the understanding that the names of the interviewees would be withheld, the Jenkins campaign allowed *NR* to review the tapes. The number of illegal votes accounted for in the interviews isn't more than fifty or so. But the illegal practices recounted seem to implicate Mayor Morial's political organization in blatant wrongdoing, and to suggest a larger pattern of illegality that puts the integrity of Miss Landrieu's victory in serious doubt.

—One New Orleans woman explained to a Jenkins investigator that she "was sitting on my porch when this nice person drove up in a . . . car and asked me whether or not I was registered voter or not. And I told him I was but I didn't feel like going. And he said, 'Well, if I paid you would you go then?' And quite naturally, a ride and the money, I got up and dusted off my little pants and got in the car." The woman, who couldn't read, says the man, working off a yellow (LIFE-produced) sample ballot, marked how she was to vote and then took her to three different locations where she voted and signed her name "X" each time.

—A New Orleans man told a Jenkins investigator that he went to three different polling places and voted at each four or five times. He says he was paid $60 for each stop, was carried in a van with several other people, and was handed a yellow sample ballot that fits the description of the LIFE sample ballot (differently colored sample ballots, distributed in massive quantities on election day, are the hallmarks of the various New Orleans political organizations). The man says he didn't have to sign in or stand in line at the various polling places.

—"Well, my friend had asked me did I want to go vote," another New Orleans woman told a Jenkins investigator. "She said they was paying people to go vote for this person. I say who was the person? She say Mary, Mary Landrieu." The woman got in a van that had three bench seats behind the driver and was driven to three polling places and given a LIFE sample ballot off which to vote. She was promised $25 for each stop. "Hey, hey all I got was $25!" she complains in the interview. "We went to three places. The agreement was we was supposed to get $25 each place." As consolation, she was given a Mary Landrieu T-shirt: "They promise you, and then they going give us ol' stanky T-shirt with her picture on it." (She threw the T-shirt away in a dumpster.)

All the interviews follow a similar pattern: An election worker promises someone money to vote; he transports him to the polls in a car or van full of people; he gives them a LIFE ballot to show them for whom and for what to vote; the voter either signs his name at multiple polling places or doesn't sign at all or, in one case, signs someone else's name. Some of the interviews suggest a fairly well-organized effort. One woman says that she was taken in a van to a polling place where she voted twice, once in her own name, the second time in a name given to her by the driver. She says the driver selected who would vote at which polling places.

At the center of the alleged misconduct in Louisiana are LIFE and the gambling interests.

The interviews also suggest that polling commissioners—often long-serving local residents who are cozy with the neighborhood's political operators—were active participants in the illegali-

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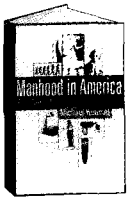

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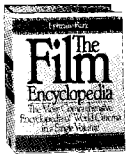

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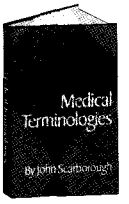

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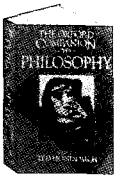

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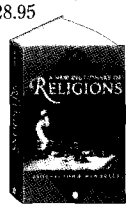

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ties, allowing selected voters to jump lines at polling places and to vote without signing their names or being checked for identification. One man who says he stood in line for an hour and a half at one polling place complained to a Jenkins investigator that twice he saw four vans pull up full of people who were allowed to jump the line and vote immediately: "They wasn't signing the book or nothin'. Just goin' in and comin' back out."

It's not an accident that multiple voters would end up with LIFE sample ballots in their hands. An integral part of Mayor Morial's patronage-fed political machine, LIFE had an enormous presence on the streets of New Orleans on election day. Among the roughly one thousand LIFE street workers were more than a hundred unclassified city employees—i.e., political appointees—assigned to its headquarters for the day (another hundred were assigned to other Democratic campaigns throughout the city). In theory, such work is voluntary. In practice, city workers seem compelled to do the mayor's political bidding.

According to a sworn affidavit by Victor M. Ortiz, a former assistant city attorney, his immediate supervisor, City Attorney Avis Marie Russell, convened a meeting on Monday, October 28, at which she said "that it was mandatory . . . that all unclassified employees report for campaign activities for Nov. 2 and Nov. 5 or that there would be 'consequences.' " Mr. Ortiz maintains that on election day Miss Russell told him to report for campaign work or resign. She disputes his account. But in a letter responding to his resignation, she writes, "At no time during my tenure as City Attorney have you indicated *any* problem with participating in campaign activities" (emphasis in original).

All along, the Jenkins campaign has maintained that it was the intersection of interests between the LIFE machine and gambling companies that created the conditions for election-day corruption on a massive scale. There were local-option initiatives on the ballot in New Orleans asking for voter approval of video poker, riverboat gambling, and a New Orleans land-based casino. Altogether, gambling interests spent an estimated $8 to $10 million statewide. The New Orleans–based Harrah's Jazz, the currently bankrupt licensee for the land-based casino, was authorized by a federal judge to spend some $1 million. Mayor Morial opposed the New Orleans casino when he was a state senator, but conveniently switched convictions last year, putting LIFE on the side of the flood of gambling money.

It made for a perfect confluence of interests: LIFE with its deep roots in the community, the gambling interests with their deep pockets. While the gambling interests had no particular stake in electing Mary Landrieu, they would have wanted to help their crucial new friend, Marc Morial, for whom electing Miss Landrieu was a key political goal. Harrah's, according to a campaign-

Mexican Standoff

BOB DORNAN, ousted from his Orange County congressional seat by a 979-vote margin, didn't lose in vain. In fact, a growing body of evidence suggests that perhaps he didn't lose at all—that ballot shenanigans might have tipped the scales in favor of his opponent, 36-year-old Democrat Loretta Sanchez.

There were grounds for questioning the result well before November 5. For months, immigrant-rights activists with links to the Democratic Party had been intensively working Hispanic neighborhoods in Dornan's largely blue-collar district, their aggressive methods practically guaranteed to add suspect names to the voter rolls.

Precinct walkers, recruited through ads in a Latino newspaper, were paid to sign up new registrants. One group offered free raffle tickets (prize: a Chevrolet Camaro) to all who could show proof of registering or voting.

A push was made to get new registrants to vote absentee. And there was an organized effort to "help" absentee voters complete their ballots.

Not everyone in the community appreciated the attention. "I feel something funny is happening here [in the 46th Congressional District] with the absentee ballots," Lupe Moreno of Santa Ana wrote to California Secretary of State Bill Jones the day after the election. Three groups of activists had dropped by election night to ask if her son had voted and if they could aid him with his ballot. "I was starting to feel harassed," Mrs. Moreno wrote.

Dornan didn't wait until the votes were counted to warn about irregularities. The night before the election, he was on a Los Angeles TV newscast, citing evidence that as many as six thousand people in Orange County might be registered more than once.

Things got curiouser. The close of election day found him ahead—by 233 votes. However, for the first time in his two-decade political career, the absentee ballots would go against him. Once they had been counted a few weeks later, Miss Sanchez had taken a slim lead, with 47,964 votes to Dornan's 46,980.

The recount that Dornan demanded changed only a few votes. But he still didn't walk away; there was too much that smelled.

—For instance, there was the unsealed ballot box that was walked into the registrar's office from a Santa Ana polling place. It contained 347 ballots, which the registrar's assistants accepted and immediately began to count.

—As many as 1,985 phantom votes have turned up throughout the district. These are ballots that seemingly materialized out of the ether; they don't correspond to signatures from the sign-in sheets at polling places. The registrar dismisses the discrepancy—which showed up on a computer tape of votes cast—as clerical error. Dornan's people vow to do their own methodical comparison of sign-ins with ballots cast.

—More than 160 voters are identified on the computer tape as having voted early and often. The registrar acknowledges that she has sent the district attorney a report on people (she won't say how many) who apparently cast two or more ballots.

—At least 126 absentee ballots were dropped off at polling places by someone other than the voter or an immediate family member, as the law requires.

—And then there is the issue that has grabbed headlines nationwide—the role played by non-citizens.

When Dornan initially protested that he might be the first member of Con-

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finance filing immediately after the election, hired about a thousand street workers on November 4 and 5. This effort was in some ways indistinguishable from LIFE's. In interviews with Jenkins investigators, 13 out of 20 randomly selected Harrah's election-day workers admitted to either handing out LIFE literature or picking up their Harrah's paychecks at LIFE offices. (Harrah's says it distributed all checks to workers directly.)

Evidence implicates both LIFE and the gambling interests in vote hauling. In Louisiana it is illegal for a political organization to pay its workers (although they can volunteer) to drive voters to the polls because the practice has traditionally been associated with vote buying. Not only were LIFE ballots apparently handed out in the vans transporting multiple voters, but the Jenkins campaign has obtained a handful of rental agreements between LIFE workers and a rental company just outside New Orleans for vans. Also, in a transcript of a taped conversation between what the Jenkins campaign identifies as a "confidential source" and a man named "Ted," who appears to work for a gambling company, the two discuss driving people to the polls in company vans.

The question now is what the Senate is going to do about all this. Based on the evidence produced so far there should, by rights, be a national firestorm of outrage at practices in Louisiana (remember the uproar when Christine Todd Whitman consultant Ed Rollins just let the words "walking-around money" cross his lips?). The chairman of the Senate Rules and Administration Committee is now considering Jenkins's evidence, and will decide probably in February whether to launch its own investigation. Mary Landrieu has taken the air out of some of the weaker aspects of Jenkins's case (for instance, "mismatches" between signatures on voter-registration cards and precinct registers), but her response to the alleged multiple voters is essentially "It couldn't happen here." If a Senate investigation confirms and expands on the evidence gathered by Jenkins, people should go to jail and a new Senate election be called.

Any suggestion of a new election, of course, will provoke howls of protest from Democrats. Mary Landrieu's defenders will maintain that she has not been directly implicated in the fraud and that no one has produced evidence of exactly 5,789 illegal votes, both of which will probably prove to be true. But when a six-year term in the U.S. Senate is at stake, the integrity of the result should be beyond a reasonable doubt. Allowing elections to stand that have been tainted by Third World electoral practices undermines the foundations of American democracy. As one soulful multiple voter told a Jenkins investigator, "The way things is going. I mean . . . it makes you not want to get out there and participate." Tell it to Woody Jenkins. □

gress voted out by non-citizens, his complaint was contemptuously dismissed in some quarters as sour grapes laced with ethnic animosity. But the sneering stopped after local reporters found fire where Dornan had seen smoke.

The *Los Angeles Times* interviewed around three dozen people who had taken citizenship classes with Hermandad Mexicana Nacional (the Mexican National Brotherhood), a group that gets federal money to aid immigrants and whose local leader, Nativo Lopez, is a political activist with Democratic ties. Nineteen of these people admitted to voting before they became citizens.

If that percentage holds for all voters registered by Hermandad, it could add up to at least 275 ineligible votes. And Hermandad wasn't the only group that may have signed up non-citizens. The Southwest Voter Registration Education Project was active in Dornan's district, and its voter-registration fliers conspicuously fail to say that one must be a citizen to vote.

Meanwhile, some sixty people who registered through Hermandad told the *Orange County Register* they had done so before being sworn in as citizens. Four admitted to voting.

On January 14, several weeks after these stories ran, investigators from the Orange County DA's office searched Hermandad's offices as part of a criminal investigation into vote fraud. Computers were carted away, along with piles of documents.

Hermandad officials responded by requesting that the Clinton Justice Department dispatch people to Orange County to "join" the investigation, "and look to see that our rights as citizens, our rights as human beings, are not violated."

"Talk about inviting the fox to a cleanup of the henhouse," one local GOP leader said to me. Suspicions were fueled when James Humble-Sanchez, an agent with the Immigration and Naturalization Service, alleged that INS supervisors had known that private contractors such as Hermandad had been helping non-citizens to register to vote, but that agents who complained to higher-ups were told to forget about it.

Whatever the district attorney turns up might prove of interest to the House Oversight Committee, which will consider Dornan's complaint contesting the election result. Some Dornan partisans worry that he won't get a fair hearing from the committee's chairman, Bill Thomas, a rogue liberal Republican who who has often been at odds with right-of-center California politicians. But Rep. Dana Rohrabacher, the solid conservative whose district hugs Orange County's northern coastline, professes confidence: "When it comes to defending the integrity of House procedures, and voting procedures, I haven't seen anybody fiercer than Thomas."

Much of the spadework that brought ballot irregularities to light was done by the Fair Elections Group, a good-government organization in Torrance, California, with patented software for analyzing registration lists and polling results. The organization in the past has uncovered the presence of dogs, cats, and dead humans on Southern California registration rolls.

For its investigation into the recent Orange County elections, Fair Elections has been slammed in *OC Weekly*, the county's left-leaning "alternative" tabloid, as a Republican front group. That's a hard argument to make, considering that Karen Saranita, who heads Fair Elections, is a former Democratic staffer for the state Senate.

She tells me she wouldn't vote for Dornan. But she'll be happy if his challenge creates momentum for changing the state's "honor" system under which it is prohibited to ask a would-be voter for identification.

"As the mother of an 11-year-old," she says, "I don't like the idea of my vote being canceled out by a cocker spaniel's." Or, she might have added, by that of the son or daughter of a foreign flag. —HAROLD JOHNSON

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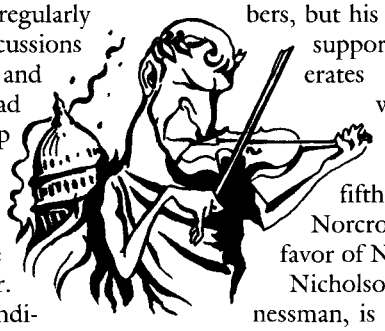
BREAD & CIRCUSES

THE 165 members of the Republican National Committee meeting in Washington, D.C., last week knew what they wanted in an RNC chairman: they wanted Haley Barbour. RNC members knew how much Barbour had done to build the party. They knew too that, to an unprecedented extent, he had been a serious player on the policy side, regularly brought into strategy discussions between Newt Gingrich and Bob Dole. But Barbour had made up his mind to step down, and so committee members had to settle for looking for a successor.



Eight contenders were eager to succeed Barbour. The most prominent candidate, former New Hampshire Governor Steve Merrill, was not a member of the committee, and so he lacked the personal contacts his opponents had. Also, he had friends in all the wrong places. His advisors were Dole campaign staffers, and even some Bush retreads. Republican governors lobbied their states on his behalf, but a number of committee members feared that a Merrill chairmanship would be "a full-employment program for the Dole campaign"—and that he would give Republican governors too much clout at the RNC.

A former committee member explained, "The hostility the state party people feel toward the Dole campaign is the worst I've seen." Many members believe Dole's campaign was mishandled by Washington insiders who rejected advice from party regulars about how to win their states. A general antipathy to Washington-based consultants helped to fuel the campaign of "reform" candidates like Texas party chairman Tom Pauken, who vowed to favor party workers over paid professionals.

In a hotel ballroom awash with elephant ties and anxious consultants and pollsters, the hotly contested race ran to five ballots. Pauken dropped out after the third ballot and threw his support to a party insider and Washington outsider, conservative national committeeman Jim Nicholson of Colorado, after receiving assurances that Nicholson wouldn't be hiring "the same old consultants."

Nicholson was a popular second choice, and as other candidates dropped out of the race, he started gaining on Merrill and RNC General Counsel David Norcross of New Jersey. Norcross was well liked by his fellow committee members, but his pro-choice views and support from party moderates proved unpopular with the increasingly conservative committee. After the fifth ballot, Merrill and Norcross dropped out in favor of Nicholson.

Nicholson, a lawyer and businessman, is a ten-year veteran of the committee and co-chaired Phil Gramm's campaign in Colorado. A West Point graduate, he explained that his experience as an Army Ranger in Vietnam prepared him to deal with the "hostile media" he will confront as the party's spokesman.

In his farewell address, Haley Barbour highlighted the other challenges awaiting Nicholson. Barbour cautioned his colleagues that as the majority party they had to be patient and deliberate; he reminded them that "the welfare state wasn't created in one session of Congress." As Antonio Martino once put it, "Rome wasn't burned in a day."

Barbour insisted that the number-one goal of the Republican Party must be to win the Presidency in 2000. They must avoid "the trap of becoming a congressional party." As Barbour insisted—and as the events of the last two years bear out—"Only a Republican President with a Republican Congress can make our national majority party the national governing party."

Just four short years ago, when Barbour took over the party, it seemed that Republicans could win the White House but little else. During Barbour's tenure, Republicans captured 13 new Senate seats, 15 governorships, more than 50 House seats, and more than 500 state legislative seats. To become the governing party, all Republicans need do is remember that an articulate conservative can win the White House.

And despite the presidential defeat in the past two elections, Republicans out in the field clearly know it. Hence the eight eager candidates for the RNC chairmanship—whereas the Democrats had difficulty finding anyone willing to take their chairmanship. Bill Clinton finally persuaded a reluctant Governor Roy Romer of Colorado to chair the DNC, where he will have the task of "instilling a heightened appreciation for fund-raising laws," as the *New York Times* delicately put it.

THE new strength of the Republican Party is evident at the state and local level, as well as in the party's retention of both the House and the Senate. The party's small-donor fundraising base has grown from 400,000 four years ago to 1.2 million. These donors are overwhelmingly conservative and expect the party to advance a conservative agenda.

But the Republican Congress will mostly be playing defense, according to Senate Majority Leader Trent Lott, who came to the RNC podium to outline the agenda for the 105th Congress. He explained that he was unwilling to let Clinton weaken last year's welfare reform, and he pledged to look "doubly close at the federal judicial appointments." He stated that congressional Republicans had no intention of letting Democrats take over the health-care system with "salami slices."

Lott did predict that there would be a balanced-budget plan including tax relief, but then explained that whereas the 104th was the "Reform Congress," the 105th would be the "Quality of Life Congress." The Majority Leader apparently expects grass-roots supporters to rally under this Clintonesque, focus-grouped banner. It seemed that the cap had been taken off Lott's plans two years ago and the contents have gone flat.

Despite the Republicans' impressive gains over the past four years, they lack ideological self-confidence. Curiously, congressional Republicans are unbeaten but bowed.

The soft-spoken Jim Nicholson might not have Haley Barbour's masterly political and communications skills, but he could be the right man for the job. A committed conservative who knows he's right has come to the aid of his faint-hearted party. —KATE O'BEIRNE

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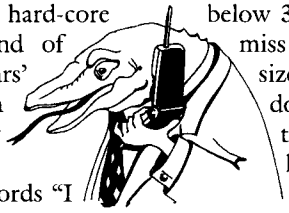
GEKKO

HOW to characterize the mood in the gold market? It's much like the tone you would expect from man-in-the-street interviews in the middle of the Black Plague. It's not just the cynical large speculators who have given up. So have the hard-core small speculators, the kind of people who have three years' worth of canned food in a bomb shelter and who buy T-shirts with pictures of a 9mm automatic and the words "I don't call 911." My people. The "bullish consensus" on gold, if that's the appropriate phrase these days, has reached an all-time low—less than 30 per cent of traders think it's a buy. The biggest reason for the pessimism was the threat of continuing sales by European central banks, who, the conventional wisdom goes, won't need massive reserves in the coming sunny era of European Monetary Union. This thesis was bolstered by an announcement by the Dutch central bank that it had disposed of some 300 tons of gold in recent months.



Late last month, like Pollyanna showing up in a death camp, a report from Jeff Christian's CPM group came across my fax. Christian and his staff do a lot of the useful, tedious counting that's necessary to come up with supply and demand numbers in a business where full disclosure not only isn't a requirement, it's a mortal sin. The report, called "The Reality of European Central Bank Sales," consisted of a relatively simple but revealing exercise: it compared the gold reserves of European central banks with the task imposed on their governments by the deficit or net-debt terms of the treaty governing their entry into the EMU. In other words, would selling their gold solve their problems? Or even do them much good at all?

The answer (as you might expect from that buildup) is, No. In CPM's words, "Many central banks could sell all their gold reserves and still not generate enough cash to pay down their governments' national debt or reduce their current-account deficits sufficiently to qualify for EMU entry."

For example, Austria has 10.7 million ounces of gold in its reserves. It will probably meet the requirement that EMU participants have a budget deficit below 3 per cent of GDP, but it will miss the guideline that limits the size of the national debt. To pay down the debt so as to meet the guidelines, Austria would have to sell 657.1 million ounces of gold, or 61 times the amount of gold it holds. If Italy, which is one of the prime sources of gold-bear nightmares, had sold all its gold last year, it would have reduced its budget shortfall relative to the EMU guidelines by just about half.

And what if the EMU ultimately were to fail? Then a European government that had to re-establish its currency on its own would not have a gold reserve to do it with. Then a central-bank gold sale would turn out to be a gift to opposition parties.

There may still be good reasons to be bearish on gold. But EMU-driven central-bank sales won't be enough to bury the metal as an investment vehicle.

■ I don't know how you spend your days—maybe listening to cellular phone scanners for David Bonior's calls to his broker—but I like going to industry conferences. You get to eat hotel breakfasts while listening to guys in suits hector you to buy their stock. Isn't that what life is all about?

"Actually, I have no idea who they are. They come with the desk of whoever handles our 'Family of Funds' portfolio."

But almost invariably, you pick up that telling detail that's worth a ream of economic reports. A couple of weeks ago, I was at a shipping conference when one of the participants pointed out that while China's economy grew at about a 9 per cent rate last year, its oil imports were up over 40 per cent.

Other pieces of information started to fill in the picture. Basically, while the extra oil demand in Western Europe and the U.S. has been more than met by the development of non-OPEC oil producers such as those in the North Sea, the growth of energy demand in the Pacific Rim apparently cannot be met by production in that part of the world. Those countries have to get their new supplies from the Arabian Gulf, or, as they say in the shipping business, the "AG." So the "AG–East" route is the highest-growth trade path in the world.

The tanker owners like that, of course, because it means that demand for their ships goes up. But if there is anybody in the Washington foreign-policy establishment who has time for anything other than environmental-policy treaties, he might wonder if part of the reason for the military buildup in China and other Asian countries is to secure their oil supplies from the AG. Even if the growth rate in the Pacific Rim countries slows down a bit, their demand for imported oil is going to rise disproportionately.

Wasn't that what was going on in 1941? Or is this obsolete, balance-of-power, Cold War, patriarchal thinking?

■ My hedge-fund friends are turning away from the U.S. markets these days, and are looking at bombed-out foreign securities for possible comeback stories. Among the places they're looking are Korea (huge payments deficit, lots of strikes), Thailand (overbuilt, big deficits), and Turkey (even more disastrous finances, Islamic fundamentalist government). Personally, I think it might be a little early for the first two, but I was so taken aback by the Turkish example that I had to find out a little more about the speculators' reasoning here. Isn't the place, well, going broke? "Naah," said one of them. "You're looking at the official figures for Turkey, which are pretty bad. But they have this huge off-the-books trade with both Iraq and Iran. They're going to do fine." Oh, OK. —JOHN DIZARD

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Monetary Folly

If the euro is ever established, the resulting political and economic instability may require America's rather urgent attention.

BERNARD CONNOLLY

ONE of George Bush's first acts on replacing Ronald Reagan in the White House in 1989 was to ring Margaret Thatcher to tell her to stop blocking the European single-currency project, then under discussion by a committee of European central bankers presided over by the High Priest of European integration, Jacques Delors. Four months earlier, in Bruges, the British prime minister had excoriated the Delorsian vision of Europe as the attempt to re-create on a European level the socialist, collectivist, corporatist economy and society that she herself had been beating down in Britain.

In Delors's own country, France, the failure of the socialist "experiment" in the early years of the Mitterrand government had made it plain that Socialism in One Country was no longer feasible. The increasing ability of international capital to hotfoot it out of any country whose government, unions, and employers' organizations were conniving in an inadequate rate of return had seen to that. Mitterrand, when he came to power, said that his government would "make a clean break with capital"; instead, capital very nearly made a clean break with France, forcing Delors, who was finance minister at the time, into three franc devaluations in 18 months. Delors concluded first, as suggested above, that a bigger area than France alone would be needed to resist international finance-capitalism; second, that constructing that bigger area would require the support of business interests. Corporatism in One Continent, a/k/a Economic and Monetary Union, was his solution.

For Jacques Delors to espouse such a project was natural enough; for Margaret Thatcher to oppose it equally so. But what on earth was a Republican President of the United States doing in supporting Delors against Thatcher? He was doing, in fact, what postwar American Presidents, Reagan apart, had, under the influence of the foreign-policy establishment, traditionally done: supporting European integration and seeing Britain as Perfidious Albion clinging to the wreckage of post-Imperial pretension. And, like his predecessors, he was failing to show any understanding of the damaging impact that European integration might have not just on America's role as a nation but on the capitalist and democratic philosophy of which America (along with Britain, at least as incarnated by Mrs. Thatcher) is seen as the greatest supporter.

The desire to see political integration in Europe was initially a product of the Cold War. As Federico Romero, writing about the institution of the Marshall Plan, put it, political union was seen as "the way to reconcile Germany's recovery with France's security and build up enough strength to contain the Soviets." (A major influence, by the way, on the United States' European policy was George Kennan, who while interned in Germany during the war had expressed the view in a lecture that the defeat of Germany would mean the end of two thousand years of European civilization.) Moreover, prefiguring the views of such as Delors, "New Deal planners saw a large unit regulated by supranational institutions as the appropriate sphere for growth-oriented economic management."

By 1952, the U.S. Mutual Security Agency (successor to the Economic Cooperation Administration, which had administered Marshall Aid) was even postulating a North Atlantic Federation with considerable supranational powers. Naturally, the U.S. Congress never entertained such an idea, and the new Eisenhower Administration settled on support for the European Coal and Steel Community and the European Defense Community. When the EDC

Mr. Connolly is the former head of the European Commission's unit for the European Monetary System, and the author of The Rotten Heart of Europe *(Faber).*

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was stillborn in 1954, and as a result West Germany was integrated into NATO, the U.S. saw an economic route to political unification in Europe as all the more essential to disarming French suspicion of Germany.

In 1953–54 the State Department successfully opposed British proposals, broadly supported by the U.S. Treasury, for sterling convertibility on the grounds that that would damage the European Payments Union, which provided a proxy for regional convertibility within Europe. The Treasury and the Federal Reserve Board were wary of the EPU, seeing it as a soft-currency bloc discriminating against dollar goods. In April 1954, the political argument for European integration was used to persuade Congress to grant a very substantial loan to the European Coal and Steel Community, over the objections of the American steel industry, which saw the ECSC as likely to develop into a protectionist cartel. By late 1955, discussing the implications of the Messina Conference, which was to lead to the creation of the European Economic Community, President Eisenhower stressed to the National Security Council "the desirability of developing in Western Europe a third great power bloc," while Secretary of State John Foster Dulles accepted some risk of anti-U.S. trade protectionism in the interests of "a genuine United States of Europe."

Among the ruling classes in Europe, humiliation rather than gratitude appeared to be the dominant reaction to the establishment of the Pax Americana.

U.S. attitudes gave little comfort to a United Kingdom that initially stood aloof from the nascent EEC. Britain was worried that the new grouping would be protectionist, would hold back the multilateralization of trade and payments, and, worst of all, would ultimately lead to the re-creation of, to use Harold Macmillan's words, the empire of Charlemagne. But Macmillan eventually decided that Britain could have no chance of remaining a world power if it did not join the EEC. By 1961, Britain had applied for membership, and Macmillan was telling Charles de Gaulle (in secret, of course) that Britain was committed to the preservation, at all costs, of a "European civilization that had endured for three thousand years" but was now "under threat from all sides, from Africans, Asians, and Communists and, in a different way from our Atlantic friends, the North Americans, New Zealanders, and Australians." This—just a decade and a half after North Americans, South Africans, Indians, New Zealanders, and Australians had fought alongside Britons to liberate de Gaulle's country from an evil system that sought to preserve "European values" as much against the Anglo-Saxon world as against Communism (not to mention Jews and Slavs)—must rank as one of the most despicable utterances ever to issue from the mouth of a British prime minister.

The point of quoting Macmillan is not to denigrate him and those other British politicians who, like de Gaulle, thought of Europe as a "Third Force," contesting world leadership with the U.S. and the Soviet Union. Rather, it is to illustrate the continuity of thinking among European politicians about the "American problem." Hitler hated the United States. After the war, the fact that America had liberated Western Europe and then protected it militarily against the Soviet threat and nourished it economically through Marshall Aid, trade and capital, and transfers of technology and knowhow did little to change European attitudes. Among the ruling classes in Europe, humiliation rather than gratitude appeared to be the dominant reaction to the establishment of the *Pax Americana*. From the very beginning, the program of European economic integration took over not only the ambitions and the structures but the very terminology proposed for Europe by Nazi economic theorists. The aim of those theorists, and of the founding fathers of the "European construction," had been to create an economic area that would be more than just a free-trade zone—an extension of "the Anglo-Saxon world market system," as a Nazi economic blueprint described it—but something that would incorporate specifically "European" economic and social values and mechanisms.

ONE aspect of American hegemony that particularly rankled with the European elite was the role of the dollar in the postwar world. This perceived problem became more rather than less serious after the breakdown of the Bretton Woods system. Under Bretton Woods, the dollar's role as the world's key currency created a demand for dollars as a reserve and transaction medium. This enabled the U.S. to import more goods with less cost in exports than would otherwise have been the case. In other words, it increased the real income and consumption possibilities of U.S. citizens. But the dollar's central role also meant that, in effect, the U.S. could not devalue it. The abandonment of Bretton Woods allowed President Nixon to do so. By the late 1970s, the financial markets' lack of confidence in the Carter Administration sent the dollar plunging, causing serious problems for the competitiveness of German industry. It was this that in 1978 led Chancellor Helmut Schmidt to propose, along with President Valéry Giscard d'Estaing, the creation of the Economic and Monetary System, aimed at limiting exchange-rate fluctuations among EC currencies. Schmidt wanted to ensure that if the dollar fell, other European currencies would, rather than falling with it, remain tied to the Deutschmark instead. Giscard d'Estaing, like just about every French politician before and since, wanted to harness Germany's economic and monetary strength to the pursuit of French monetary diplomacy, chief among whose ambitions was the reduction of American influence.

When Mitterrand replaced Giscard, it did not take long for his finance minister, the Catholic, corporatist/socialist Jacques Delors, to find WASPs under the bed and—only occasionally taking time out to refer to his German partners as "arrogant and uncomprehending"—to blame all the woes of the ailing French currency on Anglo-Saxon conspirators. To defeat those conspirators, it seemed, "Europe" had to come together. It is impossible to understand the motivation of the single-currency project without understanding the almost religious hold that corporatism

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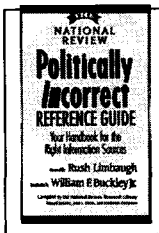

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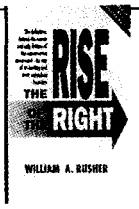

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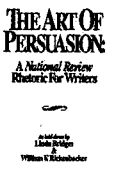

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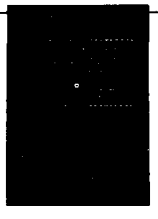

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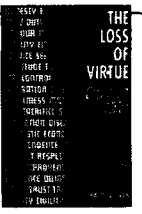

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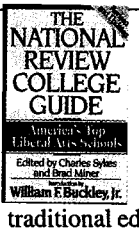
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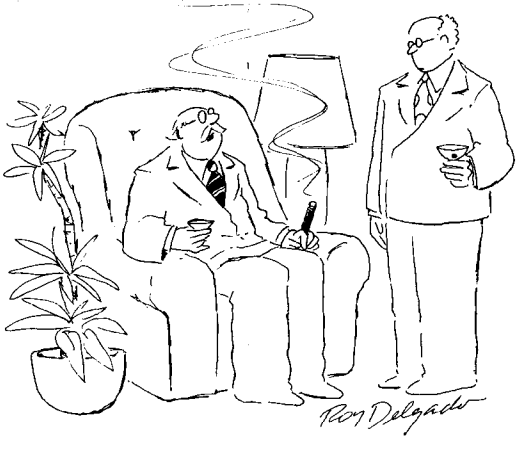
has on the European elites. Individualism, and the atomistic market capitalism that is its economic counterpart, is regarded by many Continental Europeans as the work of the devil. (Thus when the truly diabolical deeds of the Belgian child-kidnapper, rapist, pornographer, torturer, and murderer, Dutroux, came to light last summer, the Belgian prime minister, conscious that his countrymen angrily and almost unanimously believed the affair to be part of a network of political and judicial corruption of the sort that a corporatist political system makes almost inevitable, made the monstrous statement that the crimes were the product of a market capitalist system that treated people's bodies as goods to be bought and sold.) What the European corporatists really mean is that a market society is a fluid society in which established position and privilege count for relatively little and in which "outsiders" can rise to wealth and political prominence. Such a system cannot be tolerated by the European political and bureaucratic elites. If the "Anglo-Saxon" concept of shareholder value, for instance, became established as the leading principle of corporate governance throughout Europe, what would become of the French system of granting top industrial and financial jobs for life to the privileged graduates of the Ecole Nationale d'Administration? And if it supplanted the stakeholder concept hitherto dominant in Germany, what would happen to the power of union bosses in a country where the "social partners" are heavily involved in industrial and governmental decision-making?

NO wonder, then, that even Helmut Kohl has joined Jacques Chirac in mouthing the French mantra that the single currency is necessary for Europe to "stand up to" the United States. This mantra found graphic form in the French referendum campaign on the Maastricht treaty, when the pro-treaty Socialists, conscious that many Frenchmen believed the treaty to be an act of Vichyite surrender to Germany, issued posters depicting the single currency as the only way of wresting economic control of the globe from the hands of smelly American cowboys and gross Japanese Sumo wrestlers. No wonder, either, that Philippe Maystadt, the finance minister of corporatist Belgium, declared last year that the point of the single currency was to "prevent the encroachment of Anglo-Saxon values in Europe." America be warned: the single currency has you in its sights!

Just how is the single currency supposed to achieve the miracle of turning the world economic order upside down? A certain M. Gérard, a member of the policy-making council of the Banque de France, wrote an article in a French magazine last year that spelled it out. The Americans, he said, did not care about the exchange rate of the dollar—a neglect that seemed almost sacrilegious in French eyes. In more earthly terms, this insouciance meant that other countries found it difficult to bring negotiating threats to bear against the United States: France's dollar reserves, "the monetary equivalent of the [nuclear] *force de frappe*," as M. Gérard put it, were disarmed. But if the single currency, the euro, were created, it would suck capital out of the United States and into Europe, thus forcing up interest rates in the U.S. and creating unemployment there, leading a chastened and humbled America to the economic negotiating table. This, hard though it may be to believe, was written down in black and white. Its intention is clear: only if Europe is in a position to inflict real and serious pain on ordinary Americans will it be possible to force the United States to agree to a moderation of the "Anglo-Saxon world-market system." And what Gérard says about the monetary strike force is just as true, for Euro-enthusiasts such as Delors, of the real nuclear strike force. There is no doubt, Delors said in a German magazine interview just before Maastricht, that Europe must become an economic, political, and *military* superpower. And what is the point of constructing a military superpower if it is not to challenge another (more properly, *the* other) military superpower?

It is in pursuit of aims such as this that functionaries of the European Commission travel the world "selling" the virtues of the euro. Persuading Asian central banks to dump dollars for euros is the first step on the road to creating unemployment in America and forcing the U.S. Government to sue for peace. Or is it? There is a degree of confusion in European thinking. German industry is united with the French bureaucracy in wanting to see the European currencies depreciate against the dollar in order to spur competitiveness in the slow-growth, high-unemployment backwater that much of Continental Europe has become. How can this aim be reconciled with the desire to make euros so attractive that everyone will want to substitute them for dollars in their portfolios? One possibility is that the European currencies should be driven down ahead of the creation of the single currency. Then, once these currencies are converted into the euro, it, rather like the Deutschmark at the beginning of the 1960s or the yen right up until the late 1980s, would be structurally undervalued and ripe for an ascent that would see it replacing the dollar as the premier reserve currency.

This strategy might work if the euro had the underpinnings that made the Deutschmark and the yen successful currencies in their day. Unfortunately for the citizens of Europe, the euro will instead be a Mickey Mouse currency. Aside from the political imperative of somehow "standing up to" the United States, there is absolutely no coherence between French and German views of what a single currency is for, how it should work, and



"I've never operated under the assumption that money can't buy happiness."

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what is necessary to make it work. Indeed, growing recognition in Germany, and in particular in the Bundesbank, of this yawning gulf in attitudes could still prevent the project from going ahead at all.

The crux of the problem concerns the relations between monetary policy and fiscal policy, or, put differently, between the supranational European Central Bank and the national governments. The Bundesbank, in the person of its formidably intelligent president, Hans Tietmeyer, has long recognized that for the single currency to work would require the prior establishment of "the degree of solidarity characteristic of a nation." Germany seems to be ready to extend this degree of solidarity to its monetary satellites, the Benelux countries and Austria; and its foreign-policy establishment wants to be similarly nice to France. But, Kohl apart, few Germans see why they should pick up the tab for the past fiscal irresponsibility and future unreliability of countries such as Italy, Spain, Portugal, and Greece, with which they have no particular political or cultural affinity, and which even Helmut Kohl cannot imagine as a threat to Germany's peace. Furthermore, solidarity will have to be reciprocal. Yet who, looking at France's record in international economic relations over the decades and indeed the centuries, could believe that it would extend its "solidarity" to *anyone*? Indeed, the French government has recently rejected German insistence on a system of automatic sanctions for any country breaching tough limits on fiscal deficits in EMU. And it has also begun to put pressure on Germany to accept the idea of a "European economic government" to exercise surveillance and even control over the future European Central Bank, whose independence has been regarded in Germany as sacrosanct.

Aside from the political imperative of somehow 'standing up to' the United States, there is absolutely no coherence between French and German views of what the single currency is for.

Here France is logically right. In the EMU, governments will lose their sovereign borrower status. That is, they will no longer have the power, individually, to print money to pay off their debts. Hence they must control the ECB, or else they will be subject to default risk and to the fierce financial-market disciplines with which certain U.S. states and local authorities and Canadian provinces have become all too painfully familiar in recent years. But while the political consequences of this are containable within the well-rooted American political union (not least because of equilibrating transfers through the federal budget)—but to a much lesser extent in linguistically and economically riven Canada—they will be intolerable in a potentially fractious and already economically underperforming Europe. To avoid such financial-market pressures and the need for emergency fiscal retrenchment, EMU governments will have to retain the right to call on the central bank to print money and create "surprise" inflation—i.e., to cut the real value of government debt. The difference in the EMU is that the incentive to force the ECB to create "surprise" inflation will depend not on the average level of government debt in the whole EMU area but on the highest level of debt of any individual government. With Italy, or even Belgium, involved, this highest level will be more than double the level of Germany's debt ratio. And with France, now again clearly seeking a weak currency, as an influential member, markets will *expect* the ECB to come under pressure to take the easy way out. Seeking to protect themselves in advance against "surprise" inflation, they will demand risk premiums in the bond yields of *all* EMU member governments.

IN short, unless the EMU really does convert itself into a nation, there is no choice, if the single currency is established, between politically frightening, economically damaging, and socially devastating fiscal austerity on the one hand and the deliberate signaling that the euro will be a weak and unstable currency on the other. The stark nature of this choice has already dictated that the route of the weak and unstable currency will have to be followed. But the risk premiums this will bring will further hamper the Continental European economies as they struggle with the challenges not only of their own poorly functioning corporatist economic systems but also of integrating Eastern and Central Europe in a stable democratic order and of coping with the new economic powerhouses of Asia. The dream of the mighty euro making America bend before it will not materialize.

However, the American nightmare of a Europe plagued by mass unemployment, politically unstable, turning against the international market economy, and blaming everything on "Anglo-Saxon-Jewish" speculators will come that much closer to reality if the single currency becomes fact. The Treasury's 1950s opinion that "United States interest in an economically unified Europe is ill-considered" will have been proved right—not so much because narrow U.S. economic interests will be put at risk, but because an unsuccessful single currency will place the economic and political situation of Europe in the severest jeopardy.

Euro-enthusiasts among British politicians are fond of saying that Britain cannot remain unaffected by things going wrong on the Continent. Unfortunately, they draw the wrong conclusions from this undoubted truth. Even more unfortunately, years of pandering to the Continent have reduced to practically nothing Britain's ability to save Europe from itself. Once more, the United States will have to come to the rescue, responding both to self-interest and to altruism. It is time for the U.S. Government to overturn the Cold War shibboleths of Kennan and Dulles and to right the more recent misconceptions of George Bush. Mrs. Thatcher knew what she was trying to do at Bruges. America now needs to march to the drum of cool thinking and plain speaking. The U.S. Government should tell Kohl to stop exacerbating Europe's problems with the dangerous folly of the single currency. □

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THE DYING CONSTITUTION

Vigilante Justices

As the Court ignores the Constitution in favor of its conscience, it tramples on democracy—and the rights of the minority.

ANTONIN SCALIA

THE argument most frequently made in favor of The Living Constitution is a pragmatic one: Such an evolutionary approach is necessary in order to provide the "flexibility" that a changing society requires; the Constitution would have snapped if it had not been permitted to bend and grow. This might be a persuasive argument if most of the "growing" that the proponents of this approach have brought upon us in the past, and are determined to bring upon us in the future, were the *elimination* of restrictions upon democratic government. But just the opposite is true. Historically, and particularly in the past 35 years, the "evolving" Constitution has imposed a vast array of new constraints—new inflexibilities—upon administrative, judicial, and legislative action. To mention only a few things that formerly could be done or not done, as the society desired, but now cannot be done:

—admitting in a state criminal trial evidence of guilt that was obtained by an unlawful search;

—permitting invocation of God at public-school graduations;

—electing one of the two houses of a state legislature the way the United States Senate is elected, i.e., on a basis that does not give all voters numerically equal representation;

—terminating welfare payments as soon as evidence of fraud is received, subject to restoration after hearing if the evidence is satisfactorily refuted;

—imposing property requirements as a condition of voting;

—prohibiting anonymous campaign literature;

—prohibiting pornography.

And the future agenda of constitutional evolutionists is mostly more of the same—the creation of new restrictions upon democratic government, rather than the elimination of old ones. *Less* flexibility in government, not *more*. As things now stand, the federal and state governments may either apply capital punishment or abolish it, permit suicide or forbid it—all as the changing times and the changing sentiments of society may demand. But when capital punishment is held to violate the Eighth Amendment, and suicide is held to be protected by the Fourteenth Amendment, all flexibility with regard to those matters will be gone. No, the reality of the matter is that, generally speaking, devotees of The Living Constitution seek not to facilitate social change but to *prevent* it.

There are, I must admit, a few exceptions to that rule—a few instances in which, historically, greater flexibility *has* been the result of the process. But those exceptions serve only to refute another argument of the proponents of an evolving Constitution: that evolution will always be in the direction of greater personal liberty. They consider that a great advantage, for reasons that I do not entirely understand. All government represents a balance between individual freedom and social order, and it is not true that every alteration of that balance in the direction of greater individual freedom is necessarily good. But in any case, the record of history refutes the proposition that the evolving Constitution will invariably enlarge individual rights. The most obvious refutation is the modern Court's limitation of the constitutional protections afforded to property. The provision prohibiting impairment of the obligation of contracts, for example, has been gutted. I am sure that We the People agree with that development; we value property rights less than did the Founders. So also, we value the right to bear arms less than did the Founders (who thought the right of self-defense to be absolutely fundamental), and there will be few tears shed if and when the Second Amendment is

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NR *West*

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Popped 209

EDWARD J. ERLER

IT was a virtual slam dunk. The ACLU attorneys, faced with shopping for an activist judge who was willing to deconstruct the Constitution in order to promote race politics, barely broke a sweat. They found their man in the person of Thelton Henderson, Chief Judge of the Federal District Court for Northern California, an African American and former ACLU director who was appointed by Jimmy Carter. Judge Henderson has a long record of judicial activism, not only ordering race and sex set-asides, but twice overturning murder convictions of Black Panther Johnny Spain—once because Spain, who participated in a bloody prison escape that left two guards dead, was brought into court manacled, which Henderson held had unreasonably prejudiced the jury.

Originally the ACLU's challenge to the California Civil Rights Initiative (CCRI)—passed by a substantial majority of California voters in November—was assigned to Judge Vaughn R. Walker, a George Bush appointee to the federal bench. Henderson used his authority as Chief Judge to reassign the case to himself, using the pretext that he already had jurisdiction over a related matter and that he has special expertise in civil-rights matters. Doubtless Henderson was determined not to be outdone by his deconstructionist colleague, Judge Mariana Pfaelzer—also a Carter appointee—who had previously enjoined the implementation of Proposition 187, the anti-illegal-immigrant initiative passed overwhelmingly by California voters in 1994. The ideological liberalism displayed by these Carter legacies delights in thwarting the will of the American people. In these judges' eyes, the people have repeatedly displayed a lack of capacity for self government. The simple proof: passage of initiatives like CCRI displays contempt for the tenets of ideological liberalism.

CCRI was the model of justice and simplicity: the state cannot discriminate, either for or against individuals or groups, in employment, education, or contracting. But Judge Henderson believes that this prohibition against discrimination is itself discriminatory! By his irrefragable logic, the Fourteenth Amendment's command that "No State shall . . . deny to any person . . . equal protection of the laws" is unconstitutional!

In issuing an injunction against the implementation of CCRI, Henderson correctly noted that "the issue is not whether this Court should reject or respect the 'will of the people.' Rather, the issue is whether the challenged enactment complies with the laws of our Constitution and Bill of Rights." Although CCRI amended the California Constitution, in the federal system all state constitutions and laws must conform to the federal Constitution—a necessary result of the Constitution's Supremacy Clause. But Henderson's subsequent analysis of the federal Constitution is incorrect, not to mention dishonest and disingenuous.

Henderson purports to rely on precedent when he quotes the Supreme Court's 1982 opinion in *Washington v. Seattle School Dist. No. 1*: "The State may no more disadvantage any particular group by making it more difficult to enact legislation in its behalf than it may dilute any person's vote." He apparently believes that CCRI, because it bans discrimination, will place special obstacles in the way of minority groups and women in securing preferential treatment: "Individuals seeking preferences based on any other ground, such as age, disability, or veteran status," he notes, "continue to have access to the political process at all levels." Minorities and women, however, will now have to secure an amendment of the California Constitution before they can press their racial-class and sex-class claims. But Henderson misses the point: Disabled minorities and women will have the same access as other disabled people; veterans who are minorities or women will have the same access as other veterans; the aged will be made up of all races and both sexes. CCRI simply disallows access based exclusively on race, ethnicity, or sex.

(Continues on page West-4)

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WEST WORLD

■ People in six flood-ravaged Western states who expected a sympathy visit from President Clinton were disappointed. They made the mistake of sustaining water damage after November 5.

■ We thought we yielded to no one in our contempt for Federal District Court Judge Thelton Henderson, who subverted democracy by blocking implementation of the California Civil Rights Initiative (see "Popped 209," p. West-1). We then thought of yielding when we read the reaction of Assemblyman Bernie Richter of Chico: "It is well known that Judge Henderson is probably the most leftist, wacko, liberal judge sitting on the bench in the United States. It would be an understatement to say he is left of Lenin. Ironically, this decision, coming from him, is the ultimate proof" that affirmative action elevates unqualified people to high places. Well said and spoken. But come to think of it, we still don't yield.

■ Just a few months after having to deny that it was planning to dismantle its patriotic "Meet Mr. Lincoln" attraction—"Meet Mrs. Roosevelt," anyone?—Disneyland has stunned traditionalists by closing its popular "Pirates of the Caribbean" boat cruise for some politically correct alterations. In short, reacting to what park spokesman Tom Brocato calls "guest comments," the mechanical pirates viewed along the shoreline will no longer be depicted chasing empty-handed women. From here on out the women will be shown carrying trays of food and drink, in order to suggest that the marauding pirates are hungry rather than lusty. Judy Rosener, a "women's issues expert" at the University of California, Irvine, who is clearly in the ranks of formerly disgruntled guests at Disneyland, explains that "chasing women may be entertaining to men but not to women." We conclude that, in her view, chasing food is entertaining to men and women equally. In any case, at the same time "Pirates of the Caribbean" is being politically sensitized, Disneyland's "Splash Mountain" log ride has been re-christened "Flash Mountain" by many, since over a dozen souvenir photos taken on the ride have appeared on the Internet, in which female riders bear their bosoms. Civilization marches on, we guess. Meanwhile there are ugly rumors that the AARP is demanding changes to the Peter Pan ride.

■ The Oakland School Board has dropped some of the most controversial language in its now-infamous Ebonics policy—specifically, the claim that black English is "genetically based." School Superintendent Carolyn Getridge, showing the same disregard for accepted definitions as the Ebonics policy as a whole showed for accepted rules of grammar, had argued for weeks that "genetically based" meant "having its origins or genesis in African languages." The revised policy states the latter clearly—which, by the way, doesn't render the point any more sensible. Meanwhile the Oakland policy has been roundly denounced far and wide, except by the learned Linguistic Society of America and the Superintendent of the Los Angeles Unified School District, whose idea to train L.A. teachers in Ebonics has lots of support in the city's black community. Let's just hope Disneyland doesn't jump on the bandwagon: how do you say "I'm a hungry pirate" in Ebonics?

■ Rumor has it Washington Rep. James McDermott, ranking Democrat on the Congressional Ethics Committee, will leave Congress this year to form his own business specializing in henhouse security.

■ The American Indian Movement began arguing in recent years that the word "squaw" is derived from an old French slang word—itself derived from an Iroquois word—referring to a woman's private parts. Thus, they say, the use of the word in various geographical names in America—there are 921 such uses—is an insult to Indian women. We marvel at the chivalry, but in fact this derivation of "squaw" is suspect. It appears to be based on a high-school student project, and to have been seized on by AIM and others in order to give modern Indians—not to be confused with their manly ancestors—something new to whine about. The power of whining in our time should not, however, be underestimated. Thus last summer in Minnesota, in accordance with a 1995 state law, 19 land and water features whose names included

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the word "squaw" were renamed. Now AIM is turning its attention to Arizona, and demanding that Squaw Peak be renamed Iron Mountain. Don't they realize that the word "iron" is derived from a Spanish slang word, adopted from the Apaches, meaning the back side of a horse? (Or so, at least, two high-school sophomores in Flagstaff say.) Using the word "iron," then, would be an insult to all of us. And if we keep caving in to the whiners, we deserve it.

■ While they are at it, the Indians are also lobbying to expunge geographical names using the word "devil," of which the U.S. has a whopping 1,672. Current centers of controversy are Devils Lake, North Dakota, which the local Sioux would rename Spirit Lake, and Devils Tower, Wyoming, which area tribes prefer to call Bear's Lodge. Both sides of these disputes are either going to have to realize that the bear's in the details, or they're going to have a spirit of a time working things out.

■ A recent survey of the records of the Texas Department of Criminal Justice shows that state inmates have somehow stashed $7 million in the prison bank. Two prisoners had somehow amassed over $50,000, and 26 had over $10,000. There was one instance reported where an inmate's account hit the $100,000 level. In this light the state comptroller's idea of charging inmates for health care certainly makes sense. Dare we suggest a little additional charge for food and beverage?

■ A ten-year-old boy was expelled last month from John Rogers Elementary School in Seattle for carrying a GI Joe action figure in his jacket pocket. Why? The Seattle School District has a "zero-tolerance weapons policy" and the 11-inch GI Joe was carrying an inch-long molded plastic pistol. A District spokeswoman defended the expulsion by citing the policy—announced by posted signs reading "Weapons of Any Kind are Prohibited"—and by pointing out that it is "mute on size [of weapons]." This of course doesn't speak to the fact that the inch-long plastic pistol isn't a weapon, by any stretch of the imagination. It appears again that the patients are running the asylum. Vouchers, anyone?

■ With charges of voter fraud swirling around in Southern California (see "Easy Voting," p. West-5), the U.S. Immigration and Naturalization Service has suspended the practice of interviewing potential citizens at the offices of an immigrant-rights group called Hermandad Mexicana Nacional. Both the *Los Angeles Times* and the *Orange County Register* have reported that this group registered some of its clients to vote before they were citizens. (Some then became citizens before the election; some didn't.) The larger issue concerns why in the world the INS is working so closely with a liberal interest group like Hermandad in the first place. One possible explanation: The INS, a critical branch of our government, has itself, in effect, become a liberal interest group. By some accounts of illegal voting registrants, INS agents were present during their registrations. Even before the election, charges were leveled that INS was hurrying the naturalization process for partisan purposes, i.e., to help liberal candidates. The way things are going in California, conservatives sure don't need the deck stacked against them. And it looks more and more as if it is.

■ Christo, whose most recent artistic triumph was to wrap the Reichstag in silver polypropylene, has announced plans to cover between five and six miles of the Arkansas River with translucent fabric. Rumors persist that he will spend next month attempting to wrap all extant photographs of O. J. Simpson wearing Bruno Magli shoes.

■ Actor Robert Redford was recently at the San Francisco Public Library to narrate a documentary on the late Wallace Stegner, author of numerous books—including the Pulitzer Prize-winning novel *Angle of Repose*—and longtime teacher of writing at Stanford and elsewhere, whose students included Ivan Doig and Larry McMurtry. Redford expressed the desire to bring Stegner's voice to a wider audience, a cause we endorse. But Redford's own voice was more evident in his praise of Stegner for "preserving the beauty of the West while dispelling the myth." One news account summed up Redford's account of Stegner's myth-busting in the following mundane way: "He revealed that cowboys were poorly paid and were regularly exploited by cattle barons." McMurtry pointed out some years ago that modern liberal demythologizers of the West—whether feminist or socialist or, like Redford, primarily environmentalist in outlook—do not really reveal all that much new that can't be found in earlier Western histories, while they are willfully blind to so much that was significant and real in the so-called mythic accounts: "The Revisionists," he wrote, "see a West where people had only jobs, and crappy, environmentally destructive jobs at that." Stegner and the American West deserve better than the self-serving encomiums of celebrity Clintonites like Robert Redford.

■ California's official state reptile, the desert tortoise, is becoming extinct. The search for a new state reptile is centered around O. J. Simpson's lawyers.

■ We regret to announce that this will be the final issue of *NR West*. Directors of the Claremont Institute, *NR West*'s co-publisher, have decided to focus the organization's growing resources on American founding-related scholarship and issues of a more national scope, in addition to the California policy work of the Institute's Golden State Center in Sacramento. Information on all Institute work and publications can be found on the World Wide Web at http://www.claremont.org.

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ERLER

(Continued from page West-1)

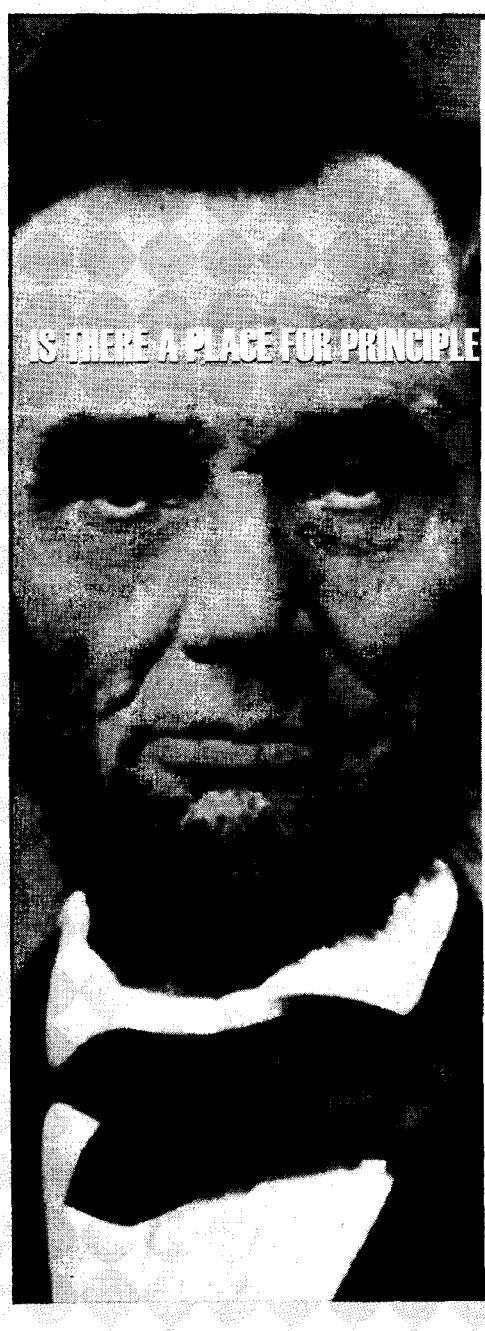
Judge Henderson is mistaken in thinking that the Constitution regards racial classes as no different than veterans, the disabled, or the aged. Doubtless, he thinks that special privileges, once granted, cannot be withdrawn, even though affirmative action and other "race-conscious" measures were always touted as "temporary" remedies in the service of equal protection. But it is welfare-state liberalism, not the Constitution, that Henderson upholds in regarding certain racial groups as somehow permanently "disabled" and in need of special tutelage. To the contrary, Justice Clarence Thomas demonstrated in *Missouri* v. *Jenkins*, a landmark case decided by the U.S. Supreme Court two years ago, that the Equal Protection Clause does not permit such paternalism.

The ACLU brief argued that CCRI took the "levers of government . . . out of the hands of disfavored groups." The use of the phrase "disfavored groups" is simply disingenuous. There are dozens of laws and administrative regulations on the books in California that mandate preferential treatment for minorities and women in employment and contracting. How have "disfavored groups" been so successful in a system that is purportedly dominated by hostile white male majorities? The initiative does the one thing that the civil-rights industry does not want: it makes it impossible for California law to accord special privileges for "disfavored" *or* "favored" groups.

The civil-rights movement once sought to end discrimination in all its guises. No one today, however, can fail to see that the movement has more the character of an elaborate extortion operation; it seeks to extort privileges and benefits based on race and ethnicity from government and from the corporate world. The ease with which Texaco was shaken down for $176 million, on the flimsiest allegations of discrimination, shows the extent to which such extortion operations succeed. Understanding this game and the stakes that are involved, Henderson purposely misconstrued and misused the Supreme Court's opinion in the *Seattle School Dist.* case, which contained the following remarkable passage: "Laws structuring political institutions or allocating political power according to 'neutral principles' . . . are not subject to equal-protection attack, though they may 'make it more difficult for minorities to achieve favorable legislation.' . . . Because such laws make it more difficult for every group in the community to enact comparable laws, they 'provid[e] a just framework within which the diverse political groups in our society may fairly compete.' . . . Thus, the political majority may generally restructure the political process to place obstacles in the path of everyone seeking to secure the benefits of governmental action." This is a veritable description of what CCRI sought to accomplish. Beyond any doubt, CCRI's framers and Californians who voted for it understood the Constitution better than Judge Henderson.

The ACLU brief also placed principal reliance on *Romer* v. *Evans*, the 1996 Supreme Court decision invalidating a Colorado initiative that made it unconstitutional to give special preferences to homosexuals. But the *Romer* decision found the defect of the Colorado initiative in its singling out of a particular group. CCRI, on the other hand, applies equally to all groups. *Romer* sim-

Mr. Erler is a professor of political science at California State University, San Bernardino.



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ply does not apply to CCRI, and any attempt at analogy is a disingenuous sophism.

It is true that only majorities that make decisions consistent with the Constitution express a legitimate will. As Thomas Jefferson remarked, in a democracy, "the will of the majority is in all cases to prevail"; but "that will, to be rightful, must be reasonable." What Jefferson meant by "reasonable" was "that the minority possess their equal rights, which equal laws must protect, and to violate which would be oppression." Thus the aim of the law should be the equal protection of equal rights—who can deny that this is the precise aim of CCRI?

Majorities must conform to the "organic law" which is embodied in the Constitution, and it is the precise role of the judiciary to guard the organic law against violations by temporary or transient majorities. But by the same token, a long-standing opinion held by the majority cannot be safely ignored in a democracy. And the long-standing opinion of the majority in the United States is against preferential treatment based on race and ethnicity—an opinion that perfectly expresses the intent of the organic law as embodied in the Equal Protection Clause. It is often said that in a democracy, the majority needs no special protection. But in our situation, the majority certainly needs protection—against an oligarchical judiciary bent on ignoring both the Constitution and the consent of the governed.

TODAY, judges represent a greater danger to liberty than the majority factions that the Framers of the Constitution feared. The people at large seem to possess a commonsense constitutional understanding that entirely escapes the federal judiciary. If there are any factions at work against the Constitution, they involve ideological liberals like Thelton Henderson who believe that the will of the majority is always incompatible with the interests of minorities. In other words, these liberals have lost the belief that constitutional government is possible.

Once the moral authority of the majority has been thoroughly undermined and discredited by the likes of Judge Henderson, the way will be open for the unabashed rule of unelected judges who will no longer be slowed down by constitutional formalities like restraining orders. Perhaps next time, Henderson will be emboldened simply to enjoin any election that threatens to display the majority's disdain of ideological liberalism. In any case, the minions of the welfare state can be certain that affirmative-action appointees to the federal bench such as Henderson and Pfaelzer will continue to view the Constitution through the ideology of race and sex that brought them to power, if not to legitimacy. □

CALLING JIMMY CARTER

Easy Voting

GLENN ELLMERS

"VOTER fraud!" It is the departing cry of losing candidates—the most recent, and loudest, being former Rep. Bob Dornan. As in the past, B-1 Bob flew into his Orange County district a few weeks before the election, expecting to pull out another victory. But his barnstorming technique ended with a crash and burn in '96, and he is left only with complaints of voter fraud to generate media coverage.

A less publicized but perhaps more serious case involved Judge Linda Wilde—the right candidate, Republicans hoped, to oust 34-year incumbent Rep. George Brown. Wilde lost this San Bernardino race by less than 900 votes, amid charges of highly peculiar anomalies in the vote tallies, "lost" ballots, and prejudicial—perhaps illegal—treatment by the County Registrar's Office. Congress is taking the matter seriously: Brown's victory has been certified by the Registrar and the California Secretary of State, all but guaranteeing that the results will stand. Nevertheless, the House Oversight Committee has taken the unusual step of sending a staff attorney to investigate.

Congressional Republicans can absorb these losses, but the implications of fraudulent voting are considerably greater at the state level. In 1996, Republicans lost the narrow majority in the State Assembly they had won two years previously. The Democrats' current 43-37 advantage, however, rests on less than 3,000 votes statewide—a fraction of a per cent of the ten-million-plus votes cast. Even minimal voter fraud could have made the difference. And by any honest analysis of California's election process, its voting-fraud problem is more than minimal.

California is the rotten borough of electoral politics, where stunningly lax standards are an open invitation to abuse. By law, only adult, non-felon citizens are qualified to vote. But little or nothing is done to enforce these restrictions on the franchise. In 1994, for example, a minor scandal erupted when it was discovered that the assassin of a Mexican presidential candidate had twice registered to vote in Los Angeles County. Yet no substantial changes in the registration process were made. Estimates are that voter fraud, along with "deadwood"—names of those who have died or moved but are still on the rolls—result in as many as three-and-a-half million improper registrations in California, amounting to more than 20 per cent of the total.

Liberals demand a mile-long paper trail for anyone buying a gun, but nary an inch for voters. In the months before an election, every supermarket and shopping mall has a card table, manned by party volunteers, where passers-by can register. No identification is required: no proof of age, or of residency in the state, or even of American citizenship. The form requires a legal, in-state address, but no evidence that one actually lives there. It requires a signature, under penalty of perjury, that the registrant meets the legal conditions for voting. Once this is signed, the road to voting is mostly assured. After the incident of the civic-minded Mexican assas-

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sin, then-L.A. County Registrar Beatriz Valdez admitted, "Voter registration forms are based on an honor system, and beyond the address of the applicant, very little of the information on them is double-checked."

THE Democratic majority leader of the State Senate, Bill Lockyer, reportedly paid professional registration workers as much ten dollars a head for every new Democrat voter they signed up in the recent election cycle. This is technically legal, but little prevents such "bounty hunters" from registering criminals, foreigners, minors, or dead people, or from submitting multiple registrations of the same person, with slight variations on the name. And because registration lists are kept at the county level, with no statewide database, it is easy for one person to be registered, and vote, at several addresses.

Attempts to purge the voting rolls of illegal registrants meet not only especially high legal standards of proof—"clear and convincing evidence"—but also a barrage of bureaucratic obstacles, privacy claims, and the constant threat of an activist judge declaring that such investigations amount to civil-rights violations. Moreover, in the aftermath of Proposition 187—the 1994 ballot initiative that eliminated social-welfare benefits for illegal aliens—many would-be reformers seem intimidated by the threat of charges of racism. And there is no doubt that a public anti-fraud campaign, which would among other things seek effectively to prohibit voting by non-citizens, would generate a violent reaction by liberal interest groups and the media.

The recent success of Proposition 209, however, should hearten reformers with the knowledge that right and common sense can prevail, even in the face of nasty and organized opposition. Without targeting specific groups, they should begin by pushing to eliminate the registration databases of the separate counties, and to re-register all eligible voters into a statewide system—requiring a drivers license or other valid form of ID.

In addition, the state's absentee-ballot program ought to be amended. Since 1976, as a "convenience" to combat low turnout, absentee ballots have been sent to any registered voter who requests one. No formal application or explanation is required. In fact, "absentee" is a misnomer, since these ballots can be hand-delivered to the local polling place on election day—needlessly circumventing the checkpoint of having each voter state his name and confirm his address with poll workers.

Having observed ballot-counting at the L.A. County Registrar's Office last November, I was shocked at the lackadaisical manner in which ballots are examined, verified, and tabulated. I had expected them to be handled like money in a bank; it was more like watching bulk mail being moved through a post office. I saw workers opening the envelopes containing special ballots sent in from the various polling places. Some contained as many as sixty or seventy hand-delivered absentee ballots—more than 10 per cent of all the voters in the precinct. Five to ten such ballots in a precinct is normal, but the workers did not raise an eyebrow, let alone an alarm.

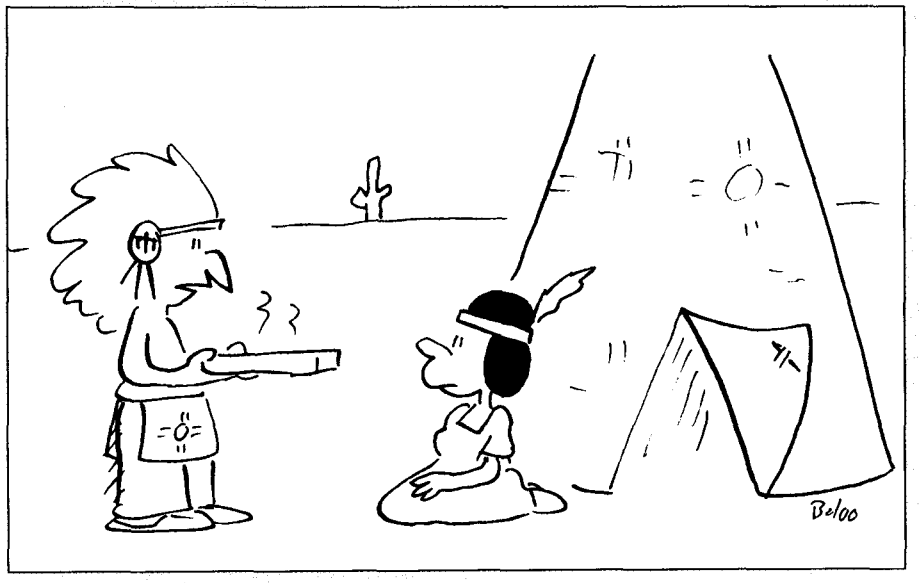
What is most disturbing about those who dismiss the problem of voter fraud in California is their frivolous attitude about the meaning of citizenship. Those who want to tighten the election process can deflect charges of racism by reminding their critics and the people that the exclusion from voting of minors and felons—and of non-citizens—derives from an understanding of citizenship in which rights are grounded in responsibilities. The eagerness to broaden the franchise—whether by being less than scrupulous about who votes, or by making voting more "convenient" to the detriment of electoral integrity—debases the idea that voting must be responsible.

WE limit the right to vote for the same reason we cherish it. Children, criminals, and aliens are excluded because we believe the right to vote should entail a maturity of judgment, based on having a stake in the community. An important aspect of this maturity is that voters will look to their shared interest in the public good, and not just what they can get from the government. Without this maturity, voting ceases to be an exercise in self-government.

Currently, California's election procedures are designed to make registration and voting easy, not honest. The legal presumption favors the availability of the franchise over the fairness and integrity of the election. Given that fact, along with a government that redistributes massive amounts of money and legislative majorities that can be determined by small fractions of the overall vote, the ingredients for profound subversion of elections are all present: motive, means, and opportunity.

Perhaps in 1998, Jimmy Carter should lead one of his famous election observation teams to the Golden State, as if it were a third-world country, inexperienced in the ways of democracy. What would be far better is to reform the state's registration and election processes sensibly, in a way to ensure that adult, non-felon citizens who reside in the state have the opportunity to vote—once.

Who could openly oppose such reforms? The sad truth is, many will. All the more reason to make haste. □



"White man kill all buffalo, so I pick up buffalo wings."

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THINKING BIG IN L.A.

Hollywood Musicals

MICHAEL LEVINE

LOOKING through the Los Angeles theater listings, I could not help but notice that every other musical has come here "live from Broadway," "direct from Broadway," "with the original Broadway cast," "a new Broadway comedy," "as presented on Broadway," and so on ad nauseam. Broadway, shmoadway. It's time for Hollywood to make its own name in musical theater, as it has in the movies.

Think of it. We're every bit as talented as New York. *More* talented. Think of what we've done with TV! Surely we can make ourselves a world-class center for musical theater. Which isn't to say it's going to be easy. We're all going to have to roll up our sleeves and go to work. I'm certainly willing to do my part to start things off, despite the fact that I'm far from an expert on the theater. Come to think of it, I've never even been in a play. But that didn't stop Madonna, and look at her.

Here, then, is the secret to making Hollywood a force to be reckoned with in the world of theater: Use major celebrities that Broadway either won't or can't touch—from both inside and outside the entertainment world—and then fashion the musicals and songs to fit them.

Examples, you say? Your wish is my command. Here is a taste—an appetizer, if you will—of the theatrical glory that could be Hollywood's:

From *The Sound of Music*, starring Dr. Kevorkian, sung to the tune of "My Favorite Things": Beating and burning and crushing and hanging / Spearing and stabbing and gassing and strangling / Withholding needed prescriptions for days / These are a few of my favorite death ways . . . (Other songs: "Die Re Mi," "Sixteen Going on Seventeen Lethal Injections").

From *West Side Story*, starring Sylvester Stallone, sung to the tune of "Jet Song": When you are rich / You can have any girl / You just pay off your wife / And give models a whirl / When you are rich / It's your ego, you see / Which deludes you to think / You can do comedy . . . (Other songs: "One Hand, One Heart, One Alimony Check," "I Feel Pretty—You Gotta Problem With That?").

From *The Music Man*, starring Heidi Fleiss, sung to the tune of "Seventy-Six Trombones": Seventy-six pink phones rang throughout my house / With one-hundred-and-ten girls waiting in line / They were purchased by tens of men / Who were spending lots of yen / And the vice squad didn't seem to mind . . . (Other songs: "Good Night with Someone," "Till There Was Bail")

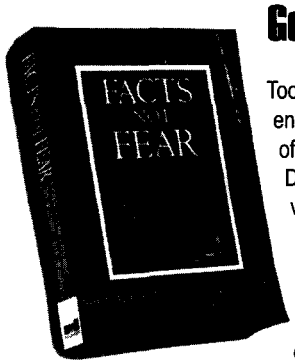
From *My Fair Lady*, starring Lyle and Eric Menendez, sung to the tune of "Wouldn't It Be Loverly?": All we want is a chance to say / Sorry we blew our folks away / It's spilled milk anyway / So let, us, out / It's brotherly . . . (Other songs: "I Could Have Shot All Night," "Get Me to Their Bank on Time").

I have more, but you get the idea. As Cole Porter wrote in *Out of this World*, "Use your imagination / Just take this motto as your theme . . . " Hey, David Brinkley and Bill Clinton would be perfect for that number . . . □

Mr. Levine is a Beverly Hills publicist whose clients have included Michael Jackson, Charlton Heston, and Barbra Streisand.

CORRECTION: In the August 12, 1996, issue of *NR West*, the Claremont Institute inaccurately reported that the estate of Conrad N. Hilton had paid $105,783,217 in federal estate taxes and costs. The Claremont Institute had relied on information published by Dearborn Financial Publishing, Inc., in its book *Classic Cases*. The Conrad N. Hilton Foundation has provided documentation establishing that Mr. Hilton's estate in fact paid only $507,099 in net federal estate taxes. We regret the error.

Rain Forests? Recycling? Global Warming? Get the Facts.



Too much fear and too few facts have brought the environmental weight of the world on the shoulders of our children. In *Facts, Not Fear*, Michael Sanera, Director of the Claremont Institute's Center for Environmental Education Research, and Jane Shaw of the Political Economy Research Center give parents and teachers accurate information to address children's concerns about the health of our planet. This book gives balanced attention to environmental issues that plague our generation. It will show, through non-technical everyday language, how you can set the environmental record straight.

To order Facts Not Fear: A Parent's Guide to Teaching Children About the Environment, send a check for $14.95 (includes shipping) to "Facts Not Fear," The Claremont Institute 250 W. First Street, Suite 330, Claremont, CA 91711

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God on TV

EIGHTEEN months ago, PBS and its Los Angeles affiliate KCET sent me and director Martin Burns on a year-long examination of the beliefs and stories of eight religious leaders. The series and a companion book that resulted were titled *Searching For God In America*. The eight half-hour segments first aired nationally last July. For a variety of reasons, including the series' apparent ability to motivate pledges, it continues to be rebroadcast around the country. And although final production was completed almost a year ago, I continue to hear about the series on a daily basis. An article in this month's *Forbes* focused on the project, and shortly I'll be in Nashville addressing the Christian Booksellers Association mid-winter meeting on the subject of the show's reception.

I'm hardly a theologian. Far from it, I'm a broadcast journalist and a law professor—a career combination about as far removed from theological authority as one can get. But because of a unique set of circumstances, I was lucky enough to have the chance to ask some very learned and very charismatic spiritual leaders some basic questions about what they believe and why. Because such conversations have been almost completely exiled from commercial television, I had this corner of the secular TV world to myself. I used the opportunity to pose questions that people of faith might pose if given the chance.

I asked Prison Fellowship founder Chuck Colson: "Why would God want to save everyone?" I asked Rabbi Harold Kushner: "Do you believe that a Messiah is coming?" I asked Presbyterian Pastor Roberta Hestenes: "Do you count the conversions you've been instrumental in as achievements?" I asked Islamic scholar Seyyed Hossein Nasr: "What do you make of New Age?" To Cecil Murray, pastor of inner-city L.A.'s First African Methodist Episcopal Church: "Do you see any miracles?" To Mormon Apostle Neal Maxwell: "What does it imply for my theology that yours is restored and mine is not?" To Trappist Monk Thomas Keating: "What do you mean when you say, 'turn it over to God'?" And to the Dalai Lama: "In Buddhist practice, is there a Creator and Orderer, to whom all things are accountable?"

None of these, or the hundreds of other questions posed or answers given, broke any new ground. But the exercise—serious conversations about faith in God, on television, on PBS, in 1996—was remarkable.

Given that 40 per cent of the American people attend church, synagogue, or mosque on a nearly weekly basis, the idea that an audience would exist for these conversations did not seem implausible to me. It did, however, to many others, who found the very idea of talking about God rather quaint. And of course a number of reporters who interviewed me questioned the "appropriateness" of the project; after all, what about church–state separation and all that? A few were more candid: faith is hokum, they implied, so why clutter up the airwaves? Skeptics with good manners did not push the point once they discovered that I was an Evangelical.

The lessons I learned from this project begin with the reflection the series provided on the American media. There is no segment of the population that is more systematically excluded from the commercial airwaves than people of deep and sincere faith. And the opinion class that drives the news and the chattering class that comments upon it are overwhelmingly unchurched, and at best skeptical of religious belief. This is why *Searching For God In America* has been treated as so highly newsworthy.

THE division between the media elite and the vast majority of Americans—again, 90 per cent in our country profess a belief in God, and more than 100 million made it to church in the last seven days—presents believers with a difficult choice: acquiesce or demand inclusion. Many other groups—from libertarians to homosexuals, Native Americans to the disabled—are comfortable crusading for acknowledgment in the mainstream media. Christians, especially, appear reticent to follow suit. Why?

"I am not ashamed of the Gospel," wrote St. Paul to the Romans. But today there is a fine line between Christian reticence and embarrassment.

While some Christians now focus on politics and organize to elect sympathetic candidates, the larger battle over the direction of our culture is a rout. Unless and until faith is accorded a position in the media proportionate to its centrality to people's lives, it is hard to imagine the moral condition of the country improving. If God doesn't deserve space on the calendar of television news and programming or in the print dailies, then how can the unchurched be expected to take seriously appeals to a transcendent moral order?

Search for God in America and you will find God in hundreds of thousands of faith communities and in the lives of tens of millions of citizens. But you will probably not find Him or His representatives on the air or in the headlines. We must strive to close the gap.

—HUGH HEWITT

Mr. Hewitt is co-host of PBS Los Angeles affiliate KCET's nightly news and public-affairs program Life and Times, *and a law professor at Chapman University Law School in Orange County, California.*

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held to guarantee nothing more than the state National Guard. But this just shows that the Founders were right when they feared that some (in their view misguided) future generation might wish to abandon liberties that they considered essential, and so sought to protect those liberties in a Bill of Rights. We may *like* the abridgment of property rights and *like* the elimination of the right to bear arms; but let us not pretend that these are not *reductions* of rights.

My pointing out that the American people may be satisfied with a reduction of their liberties should not be taken as a suggestion that the proponents of The Living Constitution *follow* the desires of the American people in determining how the Constitution should evolve. They follow nothing so precise; indeed, as a group they follow nothing at all. Perhaps the most glaring defect of Living Constitutionalism, next to its incompatibility with the whole anti-evolutionary purpose of a constitution, is that there is no agreement, and no chance of agreement, upon what is to be the guiding principle of the evolution. *Panta rhei* is not a sufficiently informative principle of constitutional interpretation. What is it that the judge must consult to determine when, and in what direction, evolution has occurred? Is it the will of the majority, discerned from newspapers, radio talk shows, public-opinion polls, and chats at the country club? Is it the philosophy of Hume, or of John Rawls, or of John Stuart Mill, or of Aristotle? As soon as the discussion goes beyond whether the Constitution is static, the evolutionists divide into as many camps as there are individual views of the good, the true, and the beautiful. I think that is inevitably so, which means that evolutionism is simply not a practicable constitutional philosophy.

I DO not suggest, mind you, that originalists always agree upon their answer. There is plenty of room for disagreement as to what the original meaning was, and even more as to how that original meaning applies to the situation before the Court. But the originalist at least knows what he is looking for: the original meaning of the text. Often—indeed, I dare say usually—that is easy to discern and simple to apply. Sometimes (though not very often) there will be disagreement regarding the original meaning; and sometimes there will be disagreement as to how that original meaning applies to new and unforeseen phenomena. How, for example, does the First Amendment guarantee of "the freedom of speech" apply to new technologies that did not exist when the guarantee was created—to sound trucks, or to government-licensed over-the-air television? In such new fields the Court must follow the trajectory of the First Amendment, so to speak, to determine what it requires—and assuredly that enterprise is not entirely cut-and-dried but requires the exercise of judgment.

But the difficulties and uncertainties of determining original meaning and applying it to modern circumstances are negligible compared with the difficulties and uncertainties of the philosophy which says that the Constitution *changes*; that the very act which it once prohibited it now permits, and which it once permitted it now prohibits; and that the key to that change is unknown and unknowable. The originalist, if he does not have all the answers, has many of them. For the evolutionist, on the other hand, every question is an open question, every day a new day. No fewer than three of the Justices with whom I have served (Justices Brennan, Marshall, and Blackmun) have maintained that the death penalty is unconstitutional, *even though its use is explicitly contemplated in the Constitution*. The Due Process Clause of the Fifth and Fourteenth Amendments says that no person shall be deprived of life without

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due process of law; and the Grand Jury Clause of the Fifth Amendment says that no person shall be held to answer for a capital crime without grand-jury indictment. No matter. Under The Living Constitution the death penalty may have *become* unconstitutional. And it is up to each Justice to decide for himself (under no standard I can discern) when that occurs.

In the last analysis, however, it probably does not matter what principle, among the innumerable possibilities, the evolutionist proposes to use in order to determine in what direction The Living Constitution will grow. Whatever he might propose, at the end of the day an evolving constitution will evolve the way the majority wishes. The people will be willing to leave interpretation of the Constitution to lawyers so long as the people believe that it is (like the interpretation of a statute) essentially lawyers' work—requiring a close examination of text, history of the text, traditional understanding of the text, judicial precedent, and so forth. But if the people come to believe that the Constitution is not a text like other texts; that it means, not what it says or what it was understood to mean, but what it should mean, in the light of the "evolving standards of decency that mark the progress of a maturing society"—well, then, they will look for qualifications other than impartiality, judgment, and lawyerly acumen in those whom they select to interpret it. More specifically, they will look for judges who agree with them as to what the evolving standards have evolved to; who agree with them as to what the Constitution ought to be.

Court Jesters

THE men who wrote the U.S. Constitution dreaded an imperial President, and they feared an unrestrained Congress. Either could destroy the new democratic Republic. So they established an ingenious system of checks and balances to prevent either branch from encroaching too far on the prerogatives of the other. But the Founders considered the judiciary to be inherently the weakest branch of government. They never contemplated what has happened—a willful judiciary that is fencing voters and their elected representatives out of the decision-making process.

Abuse of power by the Supreme Court has long been a serious concern. But the stakes are magnified by the reelection of President Bill Clinton. Mr. Clinton is likely to have the opportunity to nominate one or more members of the High Court. Presumably, he will be inclined to appoint activist Justices whose presence on the Court would aggravate an already untenable situation.

Fortunately, however, members of the U.S. Senate still can prevent our worst fears from being realized. Senators have the right to deny confirmation of activist nominees to the Supreme Court and, for that matter, other courts. Senators should decide that, henceforth, judicial nominees will be required to pledge publicly that they will interpret the Constitution and statutes in accordance with the original intent of the documents and their authors. As the High Court veers further and further from the text and intention of the Constitution, it seems clear that such a promise should be a precondition to confirmation of judicial appointees.

Most Americans paid little attention when Supreme Court Justices first began to substitute their own values for the express provisions of the Constitution. After all, Justices continued to support their decisions by references to the written law even while subverting it. Lately, however, even the pretense that the Court is abiding by the words of the Constitution has worn thin.

"The most important moral, political, and cultural decisions are steadily being removed from democratic control," Judge Robert Bork points out. "A majority of the court routinely enacts its own preference as the command" of the Constitution.

Professor Russell Hittinger terms the situation a "crisis of legitimacy," while Charles W. Colson regards recent trends as the "systematic usurpation of ultimate political power by the American judiciary." Justice Scalia, never one to mince words, is even more direct: "day by day, case by case, [the Court] is busy designing a Constitution for a country I do not recognize."

Some will be dismayed by such characterizations. But what else can be said when the Court changes laws from what was intended and written by the authors? Citizens can appeal directly to their elected representatives in state legislatures and Congress; they can request changes in existing laws; if frustrated by elected officials they can seek to replace them next election day. In a democratic society, this is the way the people govern, the way old laws are updated or repealed and new laws enacted.

But when Justices—an unelected elite—arbitrarily substitute their own preferences for the preferences of those who are elected to make laws, they are, in effect, repealing or modifying existing laws or inventing new ones. They become, in George Will's memorable phrase, "our robed masters."

Instinctively most of us shrink from thinking this could be true. But innumerable Supreme Court decisions support Professor Hittinger's contention that "we live today under an altered constitutional regime, where the rules are no longer supplied by a written document but by federal courts defining the powers of government ad hoc."

The Founding Fathers considered it dangerous to leave each state with complete power to regulate commerce. The nation could not long endure if states could discriminate against one another by erecting tariff barriers. Therefore Article I of the Constitution gives to Congress "the power to regulate commerce . . . among the several states." The Constitution could have been written to grant Congress complete power to control all commerce including that which affects only one state or the people within a single state. The Founders decided not to write it that way.

However, the Supreme Court consistently ignores the intent of the Constitution in this area. In the strange case of *Wickard* v. *Filburn*, the Court upheld federal limits on production of wheat even though the crop was never sold in interstate commerce. In fact, the wheat in question was never sold at all. It was consumed at home by the grower. The Court upheld the conviction of Mr. Filburn for violating the limits. In doing so, a majority of the Justices established the bizarre principle that by planting

Mr. Armstrong, a Colorado businessman, was a U.S. senator from 1979 to 1991.

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It seems to me that that is where we are heading, or perhaps even where we have arrived. Seventy-five years ago, we believed firmly enough in a rock-solid, unchanging Constitution that we felt it necessary to adopt the Nineteenth Amendment to give women the vote. The battle was not fought in the courts, and few thought that it could be, despite the constitutional guarantee of Equal Protection of the Laws; that provision did not, when it was adopted, and hence did not in 1920, guarantee equal access to the ballot but permitted distinctions on the basis not only of age but also of property and of sex. Who can doubt that if the issue had been deferred until today, the Constitution would be (formally) unamended, and the courts would be the chosen instrumentality of change? The American people have been converted to belief in The Living Constitution, a "morphing" document that means, from age to age, what it ought to mean. And with that conversion has inevitably come the new phenomenon of selecting and confirming federal judges, at all levels, on the basis of their views regarding a whole series of proposals for constitutional evolution. If the courts are free to write the Constitution anew, they will write it the way the majority wants; the appointment and confirmation process will see to that. This, of course, is the end of the Bill of Rights, whose meaning will be committed to the very body it was meant to protect against: the majority. By trying to make the Constitution do everything that needs doing from age to age, we shall have caused it to do nothing at all. □

and harvesting wheat on his own property for home consumption, a farmer could substantially affect interstate commerce. With such a precedent it is hard to imagine any form of commerce—for that matter, any human activity—which might not be deemed to "affect" interstate commerce and therefore be subject to federal regulation. Constitutional limitations on the scope of the national government have been effectively repealed by the Court.

When Congress passed the Civil Rights Act of 1964, it was plainly never intended that that Act would require racial quotas in business, education, etc. The law does not provide for such quotas. Indeed, Senator Hubert Humphrey and other backers of the legislation vehemently denied that such an outcome was possible. But within a few years the courts had implemented precisely the quota regime sponsors said could never result.

FROM their own experience, the Framers of the Constitution feared the establishing of an official religion for Americans. So they drafted a very simple and clear prohibition on the power of Congress to do so. But in *Everson* v. *Board of Education*, *McCollum* v. *Board of Education*, *Engle* v. *Vitale*, and many other cases, the Court has tortured the First Amendment to produce judicial outcomes which the amendment's authors would have found inconceivable. So prayers and Bibles are banned from public schools; displays of religious symbols are forbidden; postal workers are prohibited from wishing one another "Merry Christmas"; and schoolchildren are taught that the Pilgrims instituted the first Thanksgiving Day because they wished to commemorate their gratitude to . . . the Indians!

In *Romer* v. *Evans*, the Court struck down a provision of the Colorado Constitution which prohibited Colorado cities from adopting civil-rights ordinances predicated on sexual preference. In a ruling one scholar termed "indecipherable," not only did the Court overrule the people of the state, who had adopted the provision in 1992, the Justices also totally ignored their own ruling in the 1986 case of *Bowers* v. *Hardwick*. *Bowers* affirmed that the state of Georgia had the constitutional right to provide criminal penalties for homosexual conduct. But *Romer* says the state may not deny special rights to those who engage in the very behavior it is permitted to criminalize.

Some applaud these cases. Among our fellow citizens are some who believe the national government should have unlimited power to regulate commerce, that racial quotas are a good idea and school prayers are not. But the main point is not whether one is pleased or distressed by the outcome of specific cases. What is worrisome is the process by which Justices are hijacking our democratic system of government. We can well recall with apprehension the boast of Chief Justice Charles Evans Hughes that "the Constitution is what judges say it is."

Before the situation gets any worse, senators should put the White House on notice that no judicial nominee—especially for the Supreme Court—will win confirmation unless the nominee will publicly promise to judge cases in accordance with the meaning intended by the authors of the Constitution and of the various statutes. Such notification will, of course, provoke howls of outrage. The Administration, the American Bar Association, and apologists for the welfare state will be apoplectic. Some TV and newspaper pundits—fortunately not all—will decry any effort to strengthen the Senate's traditional "advice and consent" role in this way.

Insistence on an "original intent" pledge could also delay filling vacancies on various courts. The White House will strongly resist such efforts, and the resulting tensions may make it more difficult for Congress and the President to cooperate on balancing the budget, reforming entitlement programs, etc. If senators were forced to filibuster the confirmation of recalcitrant nominees, it could put a crimp in the whole legislative schedule.

Most senators aren't likely to have the stomach for such a fight. But those who do may prevail. The public is exceedingly cynical about our judicial system. If the issue is properly framed—as a showdown between democracy and elitism—it is very possible the nation will enthusiastically support efforts to curb the abuse of power by "our robed masters." If the public gets behind the idea, then, sooner or later, a majority of senators will also. In the meantime, merely raising the issue will have a beneficial effect on the thought life of nominees and sitting judges.

Cynics may wonder if judicial nominees can be counted on to keep their word if they make an original-intent promise. If they do not, then their faithlessness will merely encourage more drastic reforms.

And what if the effort to extract such promises from nominees should initially fail? In that case, the nation nonetheless will owe a debt of gratitude to any senators who raise the issue. By bringing up this fundamental question, senators can give the whole country an opportunity to participate in the decision. Ultimately, the people are supposed to decide such issues. But they can do so only if the question is put squarely before them. —WILLIAM L. ARMSTRONG

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Save the Nukes

Low-yield nuclear weapons should be an important part of the United States' defense strategy. So why are they illegal?

SAM COHEN

ON December 4, an anti-nuclear barrage hit the U.S. media. It's too bad it didn't come on December 7, for in effect it was a Pearl Harbor attack designed to destroy the very core of the United States' ability to protect itself and its key allies around the world. Except that this time the attack was launched not by an enemy but by retired officers of our own military, led by Gen. Andrew Goodpaster, former Supreme Allied Commander in Europe, and Gen. Lee Butler, former commander-in-chief of the Strategic Air Command. Their agenda was to work for nothing less than, as Gen. Goodpaster put it, the "ultimate complete elimination" of all types of nuclear weapons.

This is not the first time a radical change in our country's policies regarding nuclear weapons has been proposed. During Eisenhower's Presidency a strategic nuclear arsenal sufficient to deter the Soviet Union from attacking us directly was built up; research was begun on anti-ballistic-missile defenses to protect the American people even if the Soviets had chosen to attack; and research (in which I was involved) was done on small, discriminate battlefield weapons. However, under President Kennedy and his secretary of defense, Robert S. McNamara, testing shifted away from small, discriminate weapons and missile defense and toward weapons so massive that, in the McNamara theory of Mutual Assured Destruction, neither side would dare use them.

Indeed, in the battlefield area the McNamara strategy became one of non-use under practically any military conditions. The nuclear weapons that were lowest-yield and most discriminate were either altered or withdrawn from the theater, to ensure that no weapon was available that was not too horrendous to use. When the U.S. became seriously involved in the Vietnam War, the Livermore nuclear-weapons laboratory secretly proposed an emergency stockpiling of neutron warheads. The McNamara Pentagon rejected the proposal out of hand. Barry Goldwater, in his 1964 presidential campaign, suggested the possibility of using fission mini-nukes to end the war. Had this been done the war probably could have been ended in fairly short order. Instead, Goldwater was labeled a thermonuclear warmonger by the Johnson Administration, and he probably lost millions of votes as a result. (No presidential aspirant since has had the temerity, or political stupidity, to bring up mini-nuke battlefield weapons.)

As the tide of the Vietnam War began to turn against the United States, Secretary McNamara issued a statement, concurred in by the Joint Chiefs of Staff, that under no circumstances would any kind of nuclear weapon be used in the war. Years later, after hundreds of thousands of American casualties, hundreds of billions of dollars of American taxpayers' money, and the tearing apart of our own society, we lost the war, despite having overwhelming conventional superiority. In this respect, the current revolt against nuclear weapons cannot be described as anything dramatically new. Its history goes back to the time when Gens. Goodpaster and Butler, and many of the officers who have joined their campaign, were on active duty and occupying powerful positions.

In contrast to the ignominy of our defeat in Vietnam, the Persian Gulf War was heralded as a wonderful victory. The Bush Administration and many active and retired military officers hailed it as proof of the amazing capabilities of high-tech conventional weapons, especially the so-called precision guided munitions (popularly referred to as "smart bombs").

In fact, this war was hardly a tribute to our great high-tech capabilities. We did drive the Iraqi forces out of Kuwait, but mainly through massive, frequently indiscriminate bombing, which largely destroyed both Iraq's economic infrastructure and the fabric of its civilian society. This hardly fulfilled the Christian "Just War" objective that President Bush had proclaimed. It also did nothing to loosen Saddam Hussein's hold on his own country. As ex-CIA Director John Deutch recently admitted, Saddam is better off today than he was six years ago.

When the U.S. began its buildup of troops in the Persian Gulf, I wrote an article in the *Los Angeles Times* urging that the massive troop deployment be stopped, and that some fraction of the neutron-bomb stockpile which had been assembled by President Reagan (with little encouragement from the U.S. military, I may add) be substituted for American bodies to be shot up in the Arabian Desert. After all, went my reasoning, if the Reagan Administration, with the concurrence of then Vice President Bush, believed that the full stockpile of these weapons could defeat the Soviet Red Army in Europe, then surely a small part of it could drive the Iraqis out of Kuwait with a high degree of effectiveness and discrimination.

My article had an impact on Washington, with some congressmen supporting my stance. However, the effect on the Bush Administration was only to intensify its resolve to accomplish the task with conventional firepower only. When asked by George Will on *This Week with David Brinkley* whether we should use our neutron bombs, White House Chief of Staff John Sununu could not have been more negative. "Even if the Iraqis used chemical and biological weapons against our troops?" Mr. Will persisted. The answer was still an unequivocal no.

Furthermore, as a result of our

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great non-nuclear military triumph in Iraq, President Bush ordered the destruction of our battlefield nuclear weapons—including neutron bombs. Congress later cast this decision into concrete by passing legislation forbidding the testing, development, and stockpiling of nuclear warheads having yields of less than 5 kilotons. In other words, any American hopes for attaining an effective, discriminate, and morally defensible battlefield nuclear stockpile were demolished.

Congress demolished any American hopes for an effective, discriminate, and morally defensible nuclear stockpile.

OUR potential adversaries in any future conflict, meanwhile, are taking a very different tack. In particular, a new class of very small, very cheap, extremely effective and discriminate battlefield warheads has emerged. These weapons are based solely on nuclear fusion using tritium (the heaviest form of hydrogen), which the Nuclear Non-Proliferation Treaty does not monitor. They are in effect mini-neutron bombs, whose use would render our high-tech conventional forces essentially impotent. In that December 4 press conference, Gen. Goodpaster said that nuclear weapons "are not needed against a non-nuclear opponent. Our superior conventional capabilities, if properly sustained, will suffice against conventional forces and, in combination with defensive measures, against the threat of chemical or biological weapons." But what could our forces do against an enemy armed with these mini-nukes, which could kill troops with radiation out to hundreds of yards, but with no contamination endangering the side that fired them?

There is irrefutable evidence, as I stated in these pages three years ago ("The DOVE of War," Dec. 27, 1993), that the United States, while officially declaring this class of weapons non-existent and technically unachievable, has been working intensively to determine their feasibility. And it now appears that the Russians have completed their initial development and even produced some mini-nuke devices. There is also an abundance of evidence that the underlying technology and ingredients for these devices have been smuggled out of Russia and sold to a number of nations. (There are strong indications that South Africa has obtained the Russian technology and stockpiled an arsenal of these warheads; Israel may have a substantial stockpile of these mini-nukes as well.)

We do not know when or whether these weapons will ever be used against us (for terrorist or for military purposes), but we do know that if we were involved in a conflict where we had no battlefield nuclear capabilities and our adversary had a stockpile of these mini-neutron bombs, we very possibly, if not probably, would lose.

Even Lewis Carroll could not have written a more confusing script: The U.S. Government, having outlawed the testing of these weapons and while debunking their feasibility, proceeds to do highly classified research on them, but with the realization that it would require the forbidden testing to validate the research. So in effect we have denied ourselves the legal ability to develop and stockpile these weapons while giving the rest of the world an open license to acquire them. (So low are the explosive yields of these devices that it is practically impossible to detect their clandestine testing from any distance, and extremely difficult even from nearby.)

Considering our not-too-successful history of fighting non-nuclear ground wars in the nuclear age (Korea ended in stalemate, Vietnam in shameful defeat, and the Persian Gulf in a meaningless apparent victory), and looking into a future where our enemies may be armed with significant numbers of mini-nukes while we have none, the question arises: So far from following the generals' lead and pressing for a non-nuclear future, should we not realistically recognize that the age of nuclear weapons has not come to an end and will not in the foreseeable future? And in that case should we not arm our forces with small discriminate battlefield weapons (precisely the opposite of the "weapons of mass destruction" that the generals rightly regard as immoral)? If we don't, there may come a day when we will be forced into a posture of military isolation which our policy rejects out of hand. □

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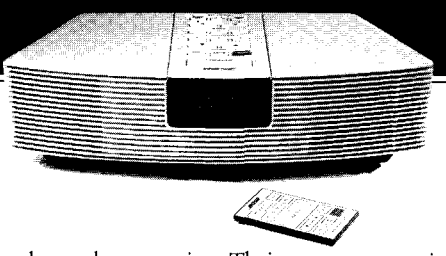

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Balancing Act

Is the Balanced Budget Amendment a good idea? Just listen to the Left.

STEPHEN MOORE

A RULE of thumb in American politics is that the value of an idea is inversely proportional to the amount it is attacked by the Left. A corollary to this rule is that any law that passes with more than eighty votes in the Senate or four hundred in the House is probably a very bad law—e.g., last year's Kennedy–Kassebaum bill.

Now here's a bit of cheery news: the Left is nearly apoplectic over the prospect of a Balanced Budget Amendment—which will be the first order of legislative business on Capitol Hill in February. Listening to the liberal intelligentsia's hyperbole regarding the amendment, one might think that what was being proposed was the reintroduction of the polio virus into the population. For example, former Clinton economic advisor Alan Blinder recently moaned: "I believe it's an unmitigated horror story. I'm as against it as I can possibly be." Left-wing former congressman Robert Drinan, now a law professor at Georgetown University, complains that "When you begin to think about the implications, it's horrendous."

The hordes of special-interest groups with their snouts in the trough are equally aghast. Marian Wright Edelman of the Children's Defense Fund warns that the amendment "poses a grave threat to the nation's children. . . . Nothing could deal a more crushing blow to our kids." Not even, presumably, the $5-trillion national debt the youngsters will some day have to repay. I suspect that this is one instance where Mrs. Edelman is deeply relieved that five-year-olds don't have the vote.

Still, the mass hysteria may pay off. In both the House and the Senate, success in getting the two-thirds of the votes needed to pass a constitutional amendment could hinge on a single vote—again. In the Senate four newly elected Democratic senators (Tim Johnson of South Dakota, Max Cleland of Georgia, Robert Torricelli of New Jersey, and the allegedly elected Mary Landrieu of Louisiana), all of whom campaigned in enthusiastic support of the BBA, are suddenly—surprise, surprise—having post-election reservations. Something about having to read the fine print in the bill.

What, exactly, does the BBA do that would so imperil our children? It establishes language in the Constitution that commits congressmen to doing what our elected officials felt a moral compulsion to do throughout the nation's first 150 years: spend only as much as they raised in taxes. Once upon a time, Congress did not engage in the kind of wanton fiscal child abuse that is now routine practice in Washington. Lawmakers believed they had a moral, if not a constitutional, obligation to follow Thomas Jefferson's advice: that "each successive generation ought to be guaranteed against the dissipations and corruptions of those preceding." The entire national debt accumulated from 1787 to 1900 was $900 million—less than Congress now borrows in five days. Somehow, children survived this century of fiscal restraint.

The *New York Times* and others in the media, of course, sneer that the BBA is yet another shameless Washington "fiscal gimmick." The truth is that if this were a gimmick, lawmakers would have long ago adopted it. The American Federation of State, County, and Municipal Employees recently vowed to spend a small fortune to fight the BBA "tooth and nail in Congress and in every state legislature." All of this to stop a "gimmick"?

One of the key virtues of the BBA is the very thing that so agitates the Left: it would forever outlaw Keynesianism—a creed still preached in the Washington policy community and taught in college economics courses, but in disrepute around the rest of the globe. E. J. Dionne Jr. writes in the *Washington Post* that a balanced-budget requirement would force us to "forget everything we've learned since the Great Depression about keeping the economy steady." "When recessions hit," he contends, "government expenditures go up. Those expenditures . . . put new life into the economy." The theory here is that government spending and borrowing are a source of rocket fuel for an ailing economy. This is the game-plan that propelled Argentina and Bolivia to economic superpower status in the 1970s.

Nowhere has the dogma of Keynesianism been a bigger flop than in the United States. Dionne is right that we learned a vital fiscal lesson during the Great Depression—but it's not the one that is almost universally misreported in every economics and American-history textbook. Roosevelt's New Deal served up one of the largest experiments in fiscal pump-priming in American history, launching an unprecedented multitude of expensive domestic initiatives to end the Depression. The national debt nearly doubled—from $28 billion in 1930 to $51 billion in 1940. Federal spending as a share of national output tripled from 3.4 to 10.4 per cent. And at the end of this avalanche of new and bigger government—we were still in a depression. (The beginning of the end of the Depression was Pearl Harbor. There's no disputing that wars are stimulatory.) Over the course of the next fifty years the evidence has been overpowering that Keynesian fiscal policy has been economically *destabilizing*.

The New York Times *sneers that the Balanced Budget Amendment is another 'fiscal gimmick.' If it were a gimmick, lawmakers would have long ago adopted it.*

Even if Keynesian theology weren't complete fiscal hocus-pocus, the past 25 years have taught us that Congress is incapable of practicing it. Keynes preached that governments should borrow during bad times and then pay back the debt during good times to smooth

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out the business cycle. Nowadays Congress borrows during good times, bad times, wartime, peacetime; during Republican Presidencies with Democratic Congresses; and Democratic Presidencies with Republican Congresses. Here we are in 1997 in a time of peace and rapid military downsizing, with a healthy economy, a President who says he wants to balance the budget, and allegedly the most fiscally conservative Congress in forty years. Under any semblance of fiscal sanity we should be running a budget surplus to pay off the Cold War debt. Instead, the deficit is expected to go up this year and the next, and the next.

IF the Keynesians' case against the amendment is unpersuasive, so, unfortunately, are many conservative arguments for it. Republicans are wrong when they insist that government deficits crowd out private investment and lead to higher interest rates. They should know better. In the Reagan years the deficit rose rapidly, yet nominal interest rates fell dramatically. In the Clinton years the deficit has fallen while interest rates have risen. (Republicans rarely correct Clinton's persistent fallacious claim that his policies have lowered interest rates. Short-term interest rates on commercial paper and 3-month Treasuries are 2 percentage points higher today than in January 1993 when Clinton took office; the home-mortgage rate has crept up from 7.8 to 8.0.) If anything, for the past twenty years, deficits and interest rates have run in opposite directions.

How can this seeming paradox be explained? Because—and almost all understanding of modern public finance must begin with this principle—it is government *spending*, not government *borrowing*, that crowds out private saving and investment. Balancing the budget is important, but *how* the budget is balanced is even more important. For example, economist Robert Barro of Harvard recently showed that countries that reduced their budget deficits by cutting spending have substantially outperformed countries that have tried to balance their budgets with tax hikes.

BBA proponents also maintain that the budget should be balanced because federal interest payments are crowding out other expenditures in the budget. There is no evidence of this crowding-out effect either. Federal spending has been climbing rapidly over the past eight years even as interest expenditures continue to reach all-time highs. If it were true that interest expenditures crowded out other spending in the budget, this would be an argument against balancing the budget. Interest payments are much less economically harmful than food stamps, foreign aid, OSHA funding, and most other government programs.

Some supply-siders who oppose the BBA, such as the editorial-page editors at the *Wall Street Journal*, are also misguided when they claim that a balanced budget would incite higher taxes. What this thinking misses is that the deficit *is* a tax—the worst kind, because it is entirely hidden. Federal borrowing allows Robert C. Byrd to pass out a dollar of government spending to voters, while imposing only 80 cents of taxes on them. Nobel Prize–winning economist James Buchanan called this the "fiscal illusion"—an effect that artificially increases the public's demand for spending. Amazingly, even as taxpayers are asked to pay just 80 cents for every dollar spent in Washington—the children that Marian Wright Edelman cares so much about will pay the other 20 cents, plus interest—voters still, by a 2 to 1 margin, think big government is a lousy deal. Imagine the pitchforked rebellion if deficit finance were outlawed and Congress forced voters to pay a dollar of taxes for every dollar of government we get from Washington.

This is the point that liberals appreci-

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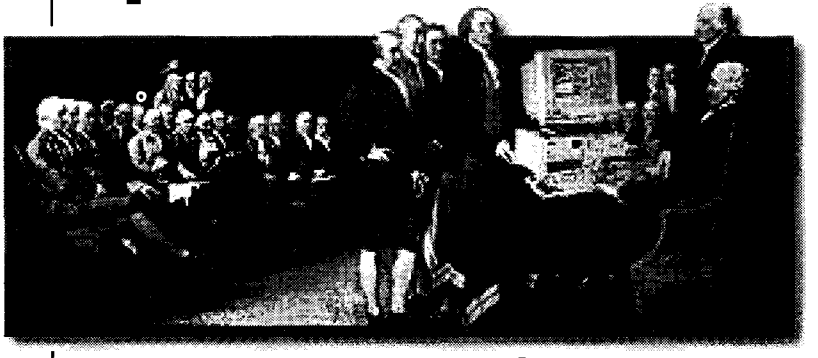

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ate much better than conservatives do. The Left understands that for the past forty years deficit finance has been what supports the nanny state. Deficit financing is what pays the bills. The Balanced Budget Amendment is thus desirable not so much because it will control federal borrowing, as because it will help limit federal spending. This is how our friends at the Children's Defense Fund state the case: "There is a substantial risk that passage of the amendment would lead to a draconian cap on entitlements with huge across-the-board cuts in Medicaid, food stamps, foster care, and AFDC. . . . Child care, Head Start, and employment training programs would be starved for funds."

What's not to like? □

The Faithful Traitor

Alger Hiss's refusal to recant helped create the myth of his innocence.

ERIC BREINDEL

THE obituaries of Alger Hiss and the commentaries that appeared in the weeks following his mid-November death caused less distress among students of the case than many had expected. Notwithstanding a few silly headlines and some television-disseminated misinformation, the mainstream media—by and large—accorded the overwhelming evidence against Hiss appropriate deference.

This evidence, of course, has only mounted in recent years. The Oleg Gordievsky and Pavel Sudoplatov memoirs, documents unearthed in Budapest by the Hungarian scholar Maria Schmidt, an archival finding in Prague by ex-USIA official Herb Romerstein and this writer, and—importantly—the newly declassified U.S. intelligence decrypts of wartime NKVD cables (the Venona papers) have combined to deal the myth of Hiss's innocence a series of severe blows.

In this context, it's appropriate to wonder why—outside the precincts of the hard Left—the notion of the Hiss case as a "riddle" or "mystery" has any saliency at all.

Why, in other words, is anyone who isn't a formal Hiss partisan prepared even to consider the suggestion that he was anything other than a Soviet spy? Didn't his 1950 federal conviction settle the matter for ordinary citizens? If not, didn't the ensuing thirty years of legal failure after legal failure on the part of Alger Hiss and his lawyers set the issue to rest?

Not entirely.

To be sure, genuine Hiss *supporters* became increasingly hard to find. And the effort by Hiss acolytes—Stalinists, *Nation*-magazine-type fellow travelers, and longstanding personal friends—to gain wider credence for the notion that the former State Department official was the victim of an FBI frame-up proved altogether unsuccessful.

Nevertheless, representations of the Hiss case as a "mystery" remain common. Informed people still declare themselves "agnostic" as to Hiss's guilt. Just after Hiss's death, for example, even White House National Security Advisor Anthony Lake—President Clinton's nominee to head the CIA—responded to a television interview question by explaining that he regards the evidence against Hiss as "inconclusive."

The key factor in this bizarre agnosticism?

Alger Hiss's steadfast refusal to confess.

Americans like things in wrapped packages. The absence of a confession gives rise to confusion; a sense of closure is missing.

Hiss, of course, always insisted on his absolute innocence. And in refusing to acknowledge wrongdoing, he secured for himself a measure of latent support—or at least agnosticism of the sort professed by Lake. Perhaps unwittingly, Hiss tapped into an ancient American need to see defendants confess their crimes.

Consider the O. J. Simpson affair. Few maintain that Simpson's acquittal on murder charges proved his innocence. Indeed, the ongoing civil trial underscores the fact that the criminal proceeding was, essentially, an exercise in jury nullification. But O.J.'s unwillingness to confess seems to make it difficult—even for those who recognize the criminal trial as a farce—simply to accept Simpson's guilt.

A decidedly nonpolitical case, dating to a more distant historical moment, points up the same syndrome. Indeed, a recently released Home Box Office film serves as a reminder that some folks are still committed to denying Bruno Richard Hauptmann's guilt in the Lindbergh case. The kidnap-murder of Charles A. Lindbergh's baby boy took place in 1932. Hauptmann was tried and executed more than sixty years ago. By any standard, the evidence against him was overwhelming. Nevertheless, even when on death row—faced with a choice between the electric chair and the possibility of commutation in exchange for a confession—the German-born carpenter insisted on his innocence.

In so doing, Hauptmann spawned a cottage industry of essays, books, plays, and films—all grounded in the unsupportable suggestion that his execution represented a miscarriage of justice.

FROM the Julius and Ethel Rosenberg atomic-espionage case all the way to the sordid tale of Cleveland osteopath Sam Sheppard—convicted of killing his wife after a sensational 1954 trial—the syndrome is constant. No matter how weighty the evidence, the lack of a confession promotes uncertainty.

And so it has been with Alger Hiss.

What accounted for Hiss's steadfast refusal to acknowledge any version of the truth?

Why did he persist in denying *all*, including the incontrovertible fact that he had, indeed, known Whittaker Chambers well in 1930s Washington.

Why, moreover, did Hiss—by suing Chambers for slander—*initiate* the legal proceedings that led to his downfall?

Finally, why didn't Hiss relent—and come clean for history's sake—once he had served out his jail term?

Mr. Breindel is editorial-page editor of the New York Post *and a syndicated columnist. He is writing a book on the Venona papers for Basic Books/New Republic Books with Herbert Romerstein.*

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In *Special Tasks*, ex-NKVD (KGB) General Pavel Sudoplatov suggests that Hiss's initial response to Chambers's 1948 accusations reflected the instructions Moscow had given its agents abroad a decade earlier. As a rule, according to Sudoplatov, Soviet agents —if accused or arrested—were to admit nothing.

But it isn't necessary simply to rely on Sudoplatov's speculation in order to understand Hiss's conduct.

Neither Hiss nor the Soviets could have known that Chambers recognized as early as 1938 that he might someday need a 'life-preserver.'

The Venona cables demonstrate that Hiss was working with Soviet intelligence as late as 1945. In addition, material from newly opened State Department files indicates that he was still active on Moscow's behalf the following year—i.e., until he left government. Hiss, therefore, had reason to expect that he would have been warned by the Soviets if an accuser armed with hard evidence had surfaced. Such a warning would probably have prompted him to behave with greater caution.

But Chambers—the sole public witness against Hiss—had defected from the Communist underground nearly a decade earlier. Neither Hiss nor the Soviets could have known that Chambers had recognized as early as 1938 that he might some day need a "life-preserver." This realization had caused him to retain incriminating documents.

Bearing in mind Hiss's initial inability to know that Chambers could document his accusations, it is possible to see a certain logic animating Hiss's conduct.

In retrospect, it is rather as if Alger Hiss had found himself on a moving train. One lie, inevitably, led to the next. And, in the light of his personal circumstances—which differed markedly from those of others named by Chambers—it is hard to identify a specific moment at which Hiss might plausibly have yelled: "Stop!"

At the time, admittedly, Hiss's behavior baffled his friends and sympathizers. Dean Acheson, for example—a genuine friend soon to be named Harry Truman's Secretary of State—professed faith in Hiss's integrity but conceded to a congressional committee that his former State Department colleague had handled himself foolishly, if only as a lawyer. The context of this hearing makes it plain that Acheson was referring specifically to Hiss's claim never even to have had a social relationship with Whittaker Chambers. (During this congressional appearance, Acheson hinted at his personal view of the case, refusing to dismiss out of hand the suggestion that Hiss was "covering up for his wife." In fact, when a congressman asked for his assessment of this interpretation, Acheson—a longtime Hiss mentor—noted only that the "theory has been expressed." He refused to cast doubt on it.)

At roughly the same time, Hiss was subjected to similar criticism from a different quarter. According to the Hiss defense files, Harold Rosenwald—the Hiss lawyer charged with securing information from the world of the Communist Party—was told by a prominent CP attorney that his client's conduct had been impossibly reckless. Rosenwald, who was searching for dirt on Chambers, received this critique from Carol Weiss King, a well-known Communist lawyer. Mrs. King believed that in denying everything, Hiss was courting disaster (as she may well have had reason to know).

But here, attention to Hiss's 1948 circumstances helps explain the posture he assumed.

Unlike most of those named as Communists by Chambers—Lee Pressman, Nathan Witt, John Abt, Henry Collins, and others—Hiss, who had been serving for more than a year as president of the Carnegie Endowment, had worked hard to cultivate an ultra-establishment persona. By contrast, Pressman & Co.—although silent, publicly, on the question of Communist Party membership—were widely recognized as fellow travelers and/or Party members. These men, therefore, were in a position to take the Fifth Amendment before the House Un-American Activities Committee (HUAC) and resume their lives without missing a beat.

Not so Alger Hiss.

In fact, Hiss probably felt he had no alternative *but* to deny Chambers's accusations. A failure to do so would have forced him to abandon his establishment niche in American life.

As for Hiss's challenge to Chambers that the latter repeat his charges outside the protected confines of a congressional hearing room—and thereby risk a slander suit—this wasn't merely a manifestation of ill-considered bravado.

When Chambers made his accusations, Hiss encouraged friends to rally to his defense; many did so. Some in this group actually urged Hiss to issue the slander challenge. And when he tarried before following through on it, a few began to express second thoughts about his innocence.

In addition, it may well have seemed to Hiss that the Carnegie Endowment board was in need of a special measure of reassurance. (Hiss, after all, was still hoping to keep his job.)

At this point, recall, Chambers had accused Hiss of Communist Party membership—nothing more. It was during the discovery phase of the slander suit that Chambers produced the "Pumpkin Papers" microfilm, typed copies of State Department documents, and notes written in Hiss's own hand.

Suddenly, Alger Hiss was in very deep. The process had turned upside down. The slander suit was moot. And eventually, Hiss was indicted for perjury by a New York grand jury probing Soviet espionage. In a short time, he had become the defendant, rather than the plaintiff.

In a 1950 examination of the implications of the Hiss case, Leslie Fiedler—a leading liberal anti-Communist intellectual—grapples with Hiss's failure to confess. In Fiedler's view: "It is difficult to say what factor is most decisive in cutting Hiss off from the great privilege of confession; opportunism or perverted

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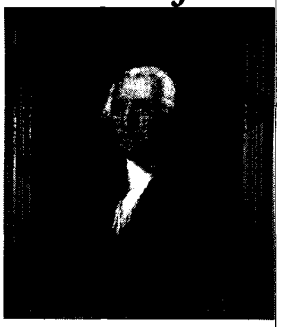

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idealism, moral obtuseness or the habit of Machiavellianism, they are all inextricably linked."

Fiedler's assessment of Hiss's character—and character flaws—seems very much on target. But in dealing with the confession issue, Fiedler fails to recognize that Hiss had, early on, dug himself into a hole—a hole into which he sank deeper with each passing day.

BY telling lies, Fiedler argues, Hiss caused "the whole point of this case" to be lost "in a maze of irrelevant data: the signature on the transfer of a car, the date a typewriter was repaired . . ."

Fair enough—save for the fact that Hiss undoubtedly saw rescuing himself as an important, if not the "whole," point of the episode. For this reason, Hiss—by his own lights—was never actually in a position to provide the response Fiedler wanted him to deliver.

The latter would have had Hiss proclaim: "Yes, I did these things—things it is now even possible to call treason—not for money or prestige, but out of a higher allegiance than patriotism." Fiedler suggests that Hiss—had he taken this route—"need not even have gone to prison."

This proposition doesn't stand up under scrutiny. Back then—as today—espionage convictions tended to lead to jail terms.

More to the point, however, is the fact that Hiss's goal was *not* merely to avoid jail, but to retain his standing in American life.

At this juncture, therefore, a confession would have served no purpose other than to spare the government the effort of prosecuting him. Moreover, admitting guilt would have forced Hiss to deal with the inevitable charge that his wife and brother were also involved in Soviet espionage.

Hiss, in short, had managed to weave an exceedingly tangled web.

The decision to make his own reputation the heart of his defense led Hiss to continue to solicit the support of well-placed friends. And many continued to respond: Acheson provided legal guidance; Justices Felix Frankfurter and Stanley Reed testified in court as character witnesses; William Marbury of the Harvard Corporation helped organize the Hiss legal team. And on it went—from Adlai Stevenson to Eleanor Roosevelt to various personal friends who contributed money, expertise, and even their own reputations to Hiss's vindication effort.

This factor cannot but have played a role in Hiss's decision not to confess. Indeed, after he was released from prison, many of his friends explained their devotion by arguing that he would not have allowed them to invest so heavily on his behalf were he anything other than absolutely innocent.

Beyond this disincentive to coming clean, Hiss—in his post-prison period—seems to have come, increasingly, to view himself as an innocent victim.

The concept may seem bizarre. But it need not mean that Hiss—in the manner of a schizophrenic—took his own lies entirely at face value.

More likely is that he always deemed himself free of *moral* guilt. He may well have believed that in extending assistance to Moscow—first the sole bulwark against fascism, later our wartime ally—he had committed no wrong.

This sense that no moral wrong attended his deeds was probably encouraged by the little-noted fact that—after his release from jail—Hiss's personal, social, and professional life began to reflect the very political sympathies he had long denied. His second marriage, for example, led him to share the last part of his life with a woman who had long traveled in the ambit of the Communist Party. His lawyers at the National Emergency Civil Liberties Committee came from the hard-left world of the National Lawyers Guild, not—as during his trials—from Debevoise & Plimpton or Covington & Burling.

In fact, Hiss's final bid for vindication—an unsuccessful 1982 petition for a writ of *coram nobis*—was orchestrated by Victor Rabinowitz, a left-wing lawyer who made no secret of his longtime Communist Party membership.

After jail, in other words, Alger Hiss stopped pretending not to know any Communists. Nathan Witt and John Abt were finally acknowledged as genuine friends, not just nodding acquaintances.

In this context, an acknowledgment of "tactical" dishonesty would have been counter-productive and—for Hiss—unimaginable. In the end, Alger Hiss may well have gone to his grave believing that he was guilty of nothing. □

ABC's Food Lyin'

ABC-TV's shameless attack on Food Lion supermarkets may herald a new era of tabloid TV.

THOMAS MCARDLE

FOOD Lion appears to have won its much-publicized lawsuit against ABC-TV, but the final ruling is unlikely to be more than a slap on the wrist for the network. The real significance of the case could be that punitive damages will become simply part of the cost of doing business for tabloid TV shows, which can afford to pay them, and woe betide any future Food Lion that has the misfortune of landing in the videotape viewfinder of one of those programs.

ABC's *PrimeTime Live* did a segment on Food Lion in 1992 that devastated the nation's fastest-growing, lowest-priced supermarket chain, many of whose stores are located in low-income, minority neighborhoods. Millions of viewers saw disgruntled former Food Lion employees tell Diane Sawyer their horror stories: cheese put back out for sale after the rat bites were trimmed away; out-of-date meat and fish soaked in bleach to remove the foul smell, then redated for sale.

Naturally, customers fled Food Lion in droves. Its stock, a Wall Street favorite, crumbled, and earnings reached twenty-year lows. The chain closed 84 stores in 1994 and laid off 3,500 workers. Expansion plans to the West and North for the North Carolina-based chain were scotched. And millions of consumers, many poor, were deprived

Mr. McArdle is a reporter for Investor's Business Daily.

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of the chance to save hundreds of dollars a year on their groceries.

But although ABC had two of its producers get jobs at two different Food Lions and hide video cameras in their wigs, they were unable to get any footage of rats or of bleached fish or ham. Furthermore, there are suggestions that much of what appeared on the air was not only carefully edited but intentionally distorted, and may even have been staged by the ABC producers.

This becomes apparent from the videotape that *PrimeTime Live* chose to leave on the cutting-room floor. Unfortunately, virtually no reporters have shown any interest in reporting on the 45 hours of ABC undercover videotape that didn't make it onto the air.

The motive for fabrication was certainly there. One of the producers, Susan Barnett, after several days of work as a deli clerk at a Myrtle Beach Food Lion, is obviously very frustrated at not being able to get a story.

As she sees a Food Lion employee start to clean a meat slicer, she can't conceal her disappointment. "Oh damn," she says. Then as it really sinks in, she says a long, drawn-out "Sh—."

The *PrimeTime Live* report charged Food Lion with unsanitary conditions, but Miss Barnett is heard telling a fellow employee, "You're the fanatic cleaner. I notice every time you guys turn around you're cleaning something."

On another occasion, an emphatic "Damn!" is Miss Barnett's comment as she carries out an order to throw out some outdated chicken. "Does this chicken go back in the cooler?" She asks a grey-haired supervisor.

"No," the supervisor responds firmly.

Miss Barnett tries again to coax her to put the old chicken out for sale: "So, you want to leave it out?"

The supervisor says, "Throw it out."

Again and again, Miss Barnett tried to get outdated or spoiling food put out for sale. As a manager is throwing a cake away, Miss Barnett protests: "What's wrong with that?"

Again she gets a firm answer: "Out of date. Too far to reduce."

The other producer, Lynne Dale, who worked as a meat wrapper in a Food Lion in North Carolina the next month, is also clearly frustrated. "I'm really bad at this job," she tells the two ABC technicians after getting into their undercover van in the Food Lion parking lot.

"You're really bad at this job?" one of them asks back.

"I really don't know what the f— I'm doing," Mrs. Dale replies.

Then a technician asks her, "Did you get anything?"

She answers with a long "Umm . . ." then decides to turn off the tape machine. Did she turn it off because she didn't want it recorded that she didn't get anything, or because she had just been doing something she *really* should not have been doing?

But the most ominous exchange on the tapes comes on May 6, 1992. For some reason Mrs. Dale has left the store at 9:30 A.M. The videotape is blacked out, but the audio can be heard clearly. "I'm gonna lose my job," she nervously tells one of the technicians.

Right before the tape cuts off, the technician is heard telling her, "Throw that tape away."

Food Lion is convinced that what Mrs. Dale had just been doing was removing a 10-inch wire from the water heater to make it impossible to clean the store's meat department that day.

The plumber who worked on the unit testified last month that he had checked the same heater three days earlier. Then, on his May 6 visit, "I . . . saw immediately that there was a wire missing. It had not just been disconnected, it was removed." He said: "I don't ever recall seeing this except on this occasion," and he added, "I felt somebody removed it."

Disabling the water heater would not have been hard, entailing only the re-

(Continues on page 60)

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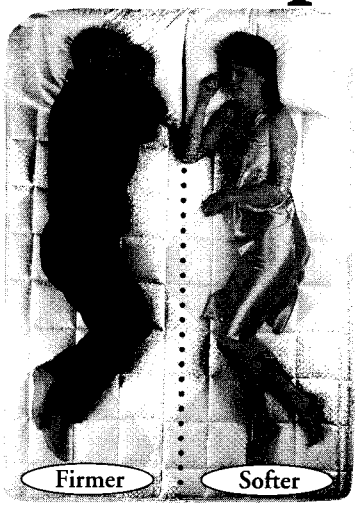

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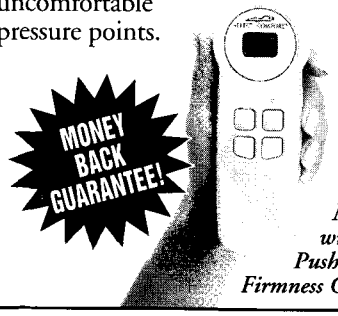

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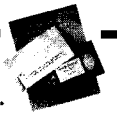

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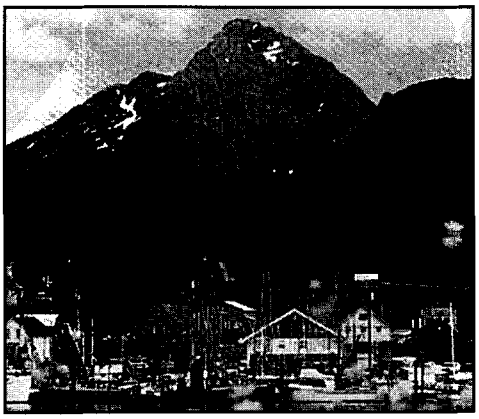
Lungren Ices Cruise Bakes

California AG, "Great Right Hope," to Join Buckley, Novak, Bork, Saj ... Bookings Deluge Agents as Cabin Space Dwindles ... Get Your Alaski

By Ed Skimo
National Review Alaska Cruise Correspondent

(New York: January 20) High-level sources inside *National Review*'s Office of Cruise Affairs have confirmed the hot rumors that Daniel E. Lungren—California's Attorney General and the man considered by many to be the conservative movement's "great right hope"—will be joining William F. Buckley Jr. and a host of conservative stars on the ***National Review* 1997 Alaska Cruise**, slated to hit the glorious waterways of "The Land of the Midnight Sun" August 10—17.



Political junkies will recall that Lungren's name was high atop GOP vice presidential lists last year, and for good reason. Ace columnist Robert Novak (another Alaska Cruise special guest) profiled Lungren in a recent *National Review* cover story as "articulate, handsome, Catholic, a proven vote-getter"—the Golden State "AG" was "re-elected in 1994 with a 4.4-million vote landslide"—"and a native Californian." Those characteristics, opined Novak, make Lungren—should he win the state's governorship in 1998—"a presidential candidate of the future."

Summarizing Lungren's stand on key issues, Novak reported he is "pro-life, a supply-sider, and tough on crime and immigration." Indeed, on the latter two issues Lungren emerged as the GOP's point man when he served in Congress from 1979—1988 (your faithful reporter can barely contain his objectivity: Where do I sign up for the "Lungren 2000" campaign?!).

Lungren's decision to join the cruise is "a tremendous coup," said one *NR* official. "I envy the people who will be spending seven fantastic days with him in Alaska. Who knows, maybe some day these lucky folks will be bragging to their friends, 'Did I ever tell you about the time we went on a cruise with President Lungren?' "

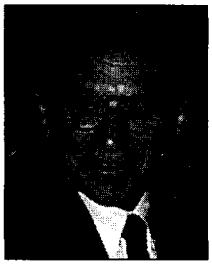
Above the ceaseless din of ringing phones (caused, I am told, by *NR* readers calling to book reservations on the cruise), the official added, "Imagine: It could almost be like going on vacation with Ronald Reagan—in 1977!"

As for those phones, they *are* ringing non-stop, and bringing with them—according to just-released reports—a fresh, daily crop of new cabin bookings.

To date, nearly 140 cabins have been reserved by people eagerly anticipating a wonder-filled week of unequalled sights (gigantic glaciers, awesome fjords, unrivaled flora and fauna, charming ports—is it any wonder that Alaska cruising is the world's *hottest* vacation experience?), policy seminars (six exciting sessions are planned) featuring an all-star conservative cast, including Lungren, Novak, Nobel Prize-winning economist Milton Friedman, Judge Robert Bork, a rare Hollywood conservative, Pat Sajak, and *NR*'s "A Team"—Bill Buckley, John O'Sullivan, Kate O'Beirne, Rick Brookhiser, Ed Capano, and Dusty Rhodes—plus exclusive social events (three relaxing pool-side cocktail receptions, plus two late-night "smokers" featuring premier H. Upmann cigars and top-shelf cognac).

The ***National Review* 1997 Alaska Cruise** will set sail from Seward, Alaska, on August 10, 1997, cruise the enchanting College and Harriman Fjords, Glacier Bay National Park, and the stunning Inside Passage, visit the charming ports of Sitka and Ketchikan, plus Juneau, Alaska's capital city, and arrive in beautiful Vancouver, British Columbia, on August 17th.

William F. Buckley Jr.



Milton Friedman

NR Publisher Ed Capano said the cruise is "timed perfectly"—set for "peak" Alaska cruising season (when temperatures are in the comfortable high 60s) and fitting into most people's vacation plans. "We expect an absolutely exceptional week," Capano said. "We couldn't have picked a better time to sail."

Or a better ship. The vessel for this incredible voyage is Holland America Line's award-winning MS *Ryndam*—voted 1995 "Ship of the Year" by the authoritative *Ocean and Cruise News*, and renowned for its elegance, luxury staterooms, pampering service, gourmet meals, fabulous entertainment, and numerous extras. "If you take everything the *Ryndam* has to offer," said Capano, "and you add in *NR*'s exclusive seminars, receptions, and smokers, plus Alaska's unrivaled natural sights, plus the beautiful ports we'll visit, plus the specialized land-tour deal we've negotiated, *plus* the big fare savings we're offering, then our subscribers can count on experiencing nothing less than seven awesome, affordable days of vacation and conservative revelry."

With dozens of calls coming in every day to *NR*'s Cruise Information Hotline (to get your 1997 Alaska Cruise information kit, call toll-free 1-800-246-9594), magazine officials are predicting that the Alaska trip will sell out quickly.

Indeed, most "choice" staterooms on the *Ryndam* are either sold out (luxury "suites" are now gone) or are going fast. Agents report that while "A" and "B" category cabins—spacious staterooms

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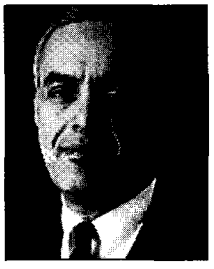
Robert Bork

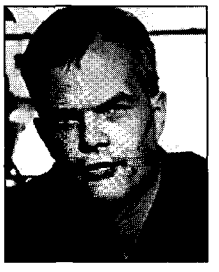


Robert Novak

Pat Sajak

John O'Sullivan

Kate O'Beirne



Rick Brookhiser

which feature a private balcony, VCR, mini bar, efrigerator, sitting area with sofa, whirlpool bath nd shower, and floor-to-ceiling windows—are till available, they "won't be much longer."

'Our subscribers demand the best, and that's what these cabins are," boasted Capano. "These taterooms, with their special verandahs, provide eople a private, front-row seat to the glaciers, jords, and coastline of Alaska. Imagine having ocktails with your loved ones and friends on *our* balcony, gazing out at the splendor and eauty of the Inside Passage, with eagles soaring bove and whales splashing below. That's the xperience the ***National Review* 1997 Alaska Cruise** will be able to deliver."

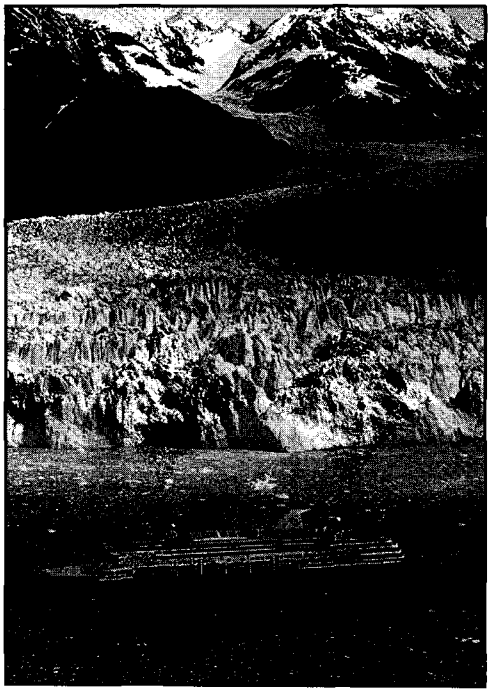
nother reason for the brisk cabin sales, *NR* ources claim, is the incredible deals the maga- ine has negotiated with Holland America. Prices r the *Ryndam*'s well-appointed staterooms start s low as $2,194 per person (which covers ccommodations, all meals, complimentary 24- our room service, all gratuities, taxes, port fees, nd transfers, plus admission to and participation n all *NR* seminars and social events!), and cou- les can save up to $900 off "catalogue" rates.

R has also arranged to offer its subscribers ncredible three- to seven-day pre-cruise tours of inland" Alaska (they're a once-in-a-lifetime chance to see Mt. McKinley, Denali National Park, Portage Glacier, and the historic towns of Nome and Fairbanks (one tour even takes you above the Arctic Circle to Kotzebue!)—plus a special three-day post-cruise tour of cosmopolitan Vancouver and Victoria—*at cost*! "These can't be purchased anywhere for less," said Capano. "Whichever tour people choose, they can count on it turning an already fabulous cruise vacation into a truly unforgettable experience."

In addition to these special tour packages, passengers can choose from a wide range of exciting day excursions when the *Ryndam* is "in port," including exciting shore side trips and adventures such as "flightseeing," kayaking, and fishing. The *Ryndam* will also appeal to families by offering a number of fascinating excursions—including rain forest hikes and trips to Indian villages and "raptor" centers—designed especially for children and teenagers.

Your faithful correspondent strongly urges all people interested in attending the ***National Review* 1997 Alaska Cruise**—an incredible opportunity to join Bill Buckley, Milton Friedman, Robert Bork, Robert Novak, Dan Lungren, and your favorite *NR* writers in Mother Nature's grandest paradise—to call the *National Review* Cruise Information Hotline at 1-800-246-9594. Any delay in this matter could result in serious disappointment.

Until next time, this has been Ed Skimo, *National Review*'s Alaska Cruise Correspondent, reporting.



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Old folks stick their ear horns in.
Old dog Tray's alert.
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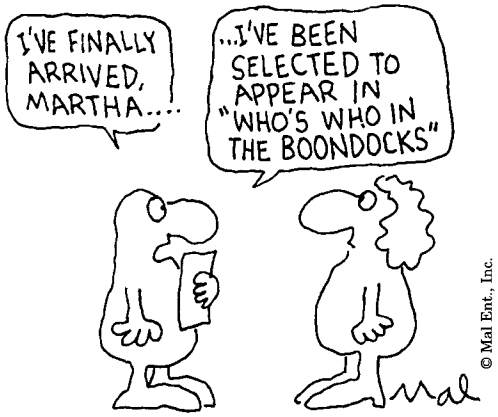
Dishes health-care dirt.
Camptown races are on hold.
Jeannie's light brown hair
Is a wig, so please proceed:
What's with Medicare?

—W. H. VON DREELE

"Good news. His condition has stabilized. He's back to his old self."



"Mom, is your book about being a feminist worth destroying all those trees to publish?"

"How do I know you won't contribute it to the Democrats?"

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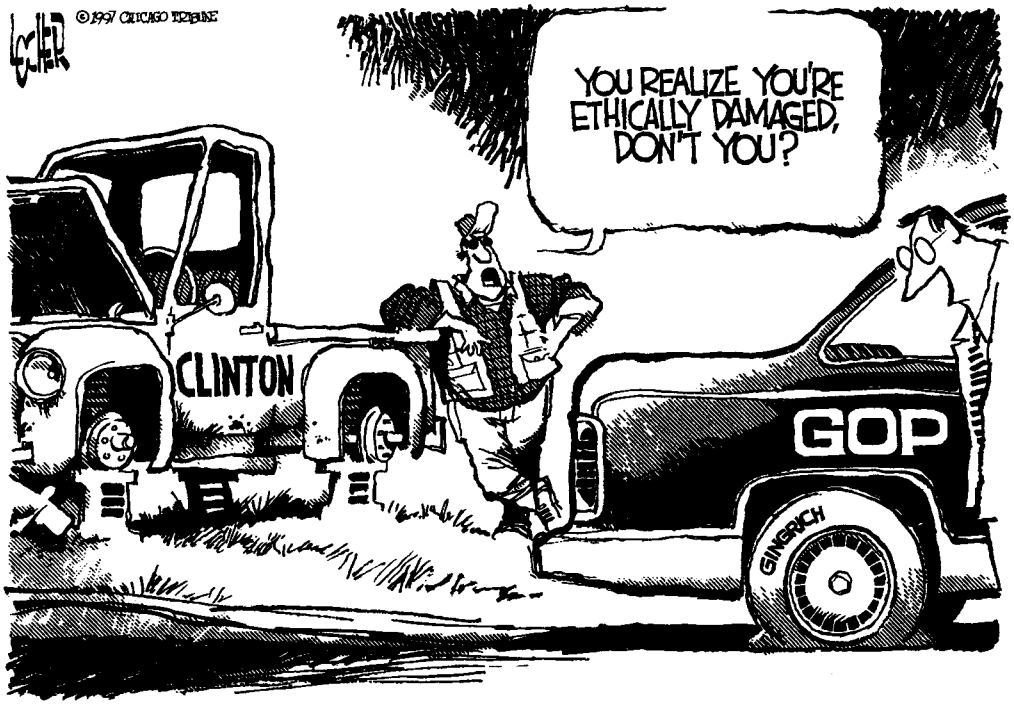

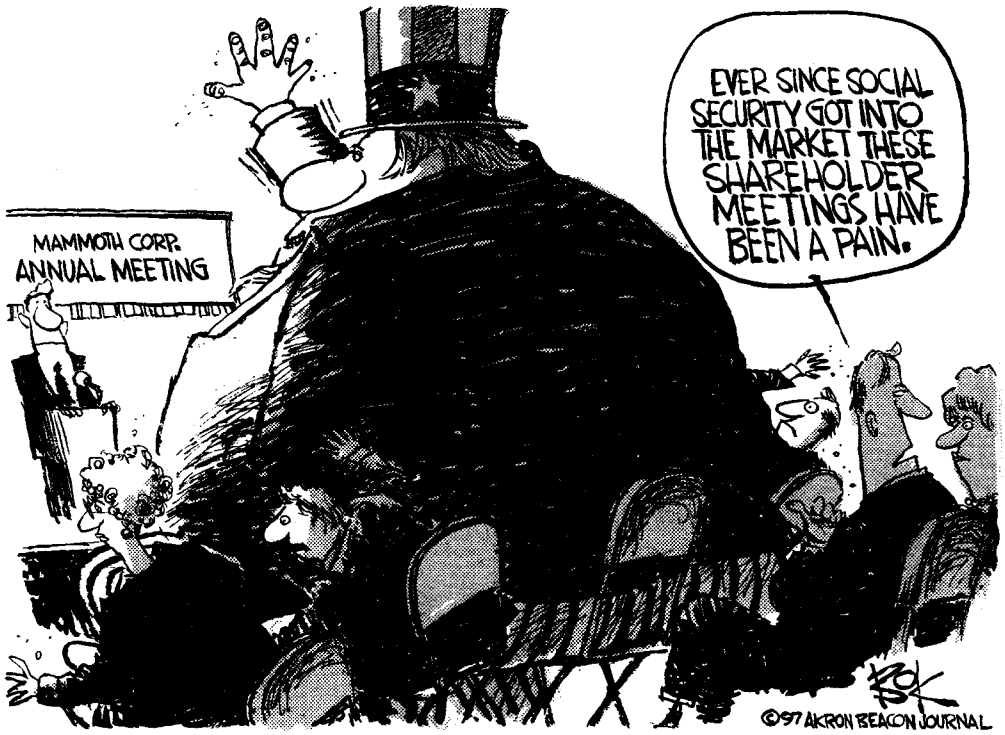
MAMMOTH CORP. ANNUAL MEETING
EVER SINCE SOCIAL SECURITY GOT INTO THE MARKET THESE SHAREHOLDER MEETINGS HAVE BEEN A PAIN.
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THE VICE PRESIDENT
WASHINGTON

January 20, 1997

Dear Rusty,

You know what? I'm not sure you missed much by not coming to the Inaugural festivities. In the first place, what could possibly match the 1992 celebration: me and Tip doing our own "Bring in 'Da Noise, Bring in 'Da Funk" at the MTV bash, Bill warbling away on the sax, and HRC still a few hours away from identifying the White House Travel Office as the first place to begin reinventing government—you know, back then we had a sense that the country was turning a corner.

A lot of our hopefulness was embodied by Maya Angelou's terrific poem, especially in the lines:

The Rock. The Paper. The Scissors. Paper covers Rock. Scissors cut Paper. Rock blunts Scissors.

When you think that her poem was a major bestseller for weeks after the 1992 Inauguration, it's hard not to get nostalgic.

So this year, it was with a somewhat heavy heart that I took the oath of the office of Vice President for the last time. It'll be nice, I guess, to take the oath of the office of President the next time around, but you know what? It won't be as special.

I guess my melancholy attitude comes from something Tipper said last week. You remember, Rusty, that there was a brouhaha in the final days of the campaign about a fundraiser I attended at a Buddhist monastery in California. It turned out that many of the contributions were not quite strictly legal in the most literal and picky definition of the word "legal," and worse, when I said I didn't know at the time that the fundraiser was a fundraiser I wasn't being strictly truthful in the most literal and picky definition of the word "truthful."

"You're turning into him," Tipper said, when I showed her the press release which admitted that I had "fudged" on the issue.

"Who?" I asked. "Dad?"

"No, Al. Him. Bill. The kind of guy who lies—"

I cleared my throat.

"I'm sorry," she went on. "The kind of guy who fudges so often and about so many small things that he gets the reputation for being a colossal liar—"

I cleared my throat again.

"Okay," she said. "He gets the reputation for being a colossal fudger when what he really is, is a small fudger about a lot of things."

"What's your point, Tip?" I asked.

"My point is, be careful. The press is tired of beating up on Bill. It's too easy. And they're almost tired of beating up on Newt. I mean, the guy is jowly and has bad hair. How challenging is that? It's like hunting dairy cows."

Tipper has a colorful way of phrasing things. But I still didn't get her point.

"What are you saying, Tip?" I asked. "That the press doesn't like me? Are you kidding? I mean, I hate to toot my own horn, but I'm the only one they do like around here."

"Uh huh," Tip murmured. "Wait 'til they read about your little white fudge."

What happened was just as I predicted: we issued the press release, and it ended up somewhere near the "Land Use Judgments" section of the Post. The press was still pretty much centered on Gingrich and his ethical problems—among them, lying about what he knew and when (and he's second in line for the Presidency! Where's the outrage in America?)—so my little mea culpa was not much noted by some of the White House press corps. (The guy from Newsweek called me "courageous and forthright"; Time suggested that "we pause in our outrage that Speaker Gingrich flouted the regulations governing the use of 501(c)(3) funds, and celebrate the Vice President's admission that in the hurly-burly of campaigning, he might have been misunderstood"; and Marty Peretz called to ask if the whole thing wasn't a case of my being so distraught over my sister's death from lung cancer, brought vividly to mind by the incense smoke, that I missed seeing the 67 shoeboxes stuffed with checks and cash. I had to admit his analysis was probably correct.)

As I was tying my tie this morning, I joked to Tipper that she had gotten it all wrong, that the press loves me, and that my little fudge didn't signal anything remotely like my becoming Bill.

She glowered at me. She hates it when I'm right. But I was having fun, so I pressed on.

"I mean, it's not me that we have to worry about, Tip. It's you. You know what I think? I think you're becoming a little bit like her. That's what I think."

Chuckling, I slipped the knot in my tie and glanced in the mirror. I barely saw her pick up the lamp.

So whatever it was, the weather, the smaller crowd, or the throbbing pain on the left side of my head, all I can say is, I enjoyed 1992 a lot more.

See you soon, Rusty.

Your pal, Al

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BOOKS, ARTS & MANNERS

Inner Chambers

TERRY TEACHOUT

LEAFING through the introduction to the newly collected Holmes–Frankfurter correspondence, I found a passing reference to "the alleged Communist spy Alger Hiss." Time was when such lawyerly weaseling left me speechless with anger. Now I just shrug. As Dostoyevsky, Whittaker Chambers's favorite author, once put it, "Man gets used to everything, the beast!" Alger Hiss was convicted of perjury in a court of law, and everyone who knows anything about the Hiss case knows perfectly well that he did what Chambers said he did. Allen Weinstein put the next-to-last nail in the coffin in 1978 with the publication of *Perjury*, and the coup de grâce came with the release last year by the National Security Agency of intercepted Soviet cable traffic from the Forties, which revealed that Hiss flew straight from Yalta to Moscow, where Andrei Vyshinsky personally thanked him for his long years of service to the Soviet Union. But when Hiss died in November, virtually no obituary writer was willing to say flat out that He Did It, and Peter Jennings and Tom Brokaw both went so far as to suggest that he was framed. Such is the nature of Alger Hiss's posthumous victory: by lying steadfastly for half a century, he succeeded in hiding the truth behind the shadow of a doubt.

Whittaker Chambers: A Biography, by Sam Tanenhaus (Random House, 610 pp., $35)

The truth which Hiss's lies concealed was not just that he was a Soviet spy, but that modern American liberalism itself bears the blood-red birthmark of complicity in the Communist cause. Once again, everyone who knows anything about the history of liberalism knows this. But it was (and is) the most inconvenient of truths for those liberals who understood (and understand) that an ideology whose legitimacy is rooted in the myth of its own absolute rectitude can ill afford to admit having partaken of original sin. So the liberal establishment shamefully turned its back on anti-Communism, and the inconvenient truth about Alger Hiss and his fellow Communists slowly vanished beneath a sea of qualifications, evasions, and outright lies.

Roman Genn

What also vanished was the truth about Whittaker Chambers. To be sure, his memory was kept bright by those who had known him in his post-trial days, not least those who had worked with him at *NR* in the Fifties and the countless young Americans who had been converted to conservatism by reading *Witness*, his best-selling 1952 memoir. But until the appearance of *Perjury*, Chambers was visible only through the glare of partisanship. To his enemies, he was the spiritual leader of the dark legion of reaction; to his admirers, he was a symbol of the great moral cause of the postwar era. More than a few conservatives were thus understandably unnerved when Allen Weinstein revealed that Chambers was, like all human beings, all too human: one suspects they preferred the symbol to the flawed, confused man himself.

I doubt that Sam Tanenhaus's long-awaited biography of Whittaker Chambers will change anyone's mind about whether Hiss or Chambers was telling the truth. Nor is it intended to do so (though Tanenhaus includes a devastatingly efficient six-page appendix summarizing the additional evidence against Hiss which has emerged in the five decades since his conviction). For *Whittaker Chambers: A Biography* is not a rehash of *United States of America* v. *Alger Hiss*. It is, rather, the richly detailed story of a representative modern man, one who embodied in his tortured person all the tensions and complexities of the Thirties, and I know of no book that does a better job of explaining that low, dishonest decade.

Modernity, as Tanenhaus reminds us, was Whittaker Chambers's birthright: he was taught from earliest childhood that there is no truth, and he spent the rest of his life searching for it. His father was a bisexual magazine illustrator, his mother an arty, shabby-genteel agnostic. At Columbia University, he dazzled such teachers as Mark Van Doren (and such students as Lionel Trilling) with his literary gifts, but soon discovered that words alone could not fill the empty places in his soul. Tormented by inchoate homosexual longings, painfully aware of the squalor and misery in which the "other half" of America lived, Chambers sought deliverance in the secular religion that was

Mr. Teachout, the music critic of Commentary, *edited* Ghosts on the Roof: Selected Journalism of Whittaker Chambers, 1931–59 *(Regnery). He is writing* H. L. Mencken: A Life.

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Marxism, abandoning a promising career as a poet and translator to become a Communist journalist and, later, a spy. Idealism drove him into the arms of mass murderers, and idealism forced him in time to confront the enormity of what he and his Communist brethren had done: by choosing to testify against Alger Hiss, Chambers, in Arthur Koestler's striking phrase, "knowingly committed moral suicide to atone for the guilt of our generation."

All this is well known, at least in outline, to readers of *Witness* and *Perjury*. But Tanenhaus has put new factual flesh on the received view of Chambers, giving us, among many other invaluable things, the first fully convincing account of his college days—I came away from this book understanding at last why his fellow students admired him so extravagantly—and, no less important, the first adequate discussion of his famously stormy tenure at *Time*:

> Chambers was not reporting. He was explaining, reading political developments through the lens of Leninism. That lens collected its light from a narrow range of the spectrum, but the beam it threw on events was stunning in its clarity. Chambers overstated his case, often seeing dangers where they were not present. He was also not above crimping the evidence to suit his thesis. Still, he grasped, better than anyone else around him—and as well as any other American of the day—that the postwar world would be formed in the crucible of "power politics."

The drama, as is so often the case with biography, is in the details, which Tanenhaus supplies in abundance: what could be more potently symbolic than the fact (published here for the first time) that Chambers gave up the opportunity to translate the last volume of *A la recherche du temps perdu* in order to go to work for *The New Masses*? And even when Tanenhaus revisits oft-tilled ground, as in his description of the Hiss perjury trials, he manages to make the familiar fresh: what could be more illustrative of Chambers's character than the fact that, as he waited for the first trial to get under way, he passed the time reading Dostoyevsky's *The Possessed* and W. H. Auden's *The Age of Anxiety*?

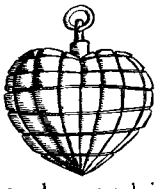
No small part of the strength of *Whittaker Chambers: A Biography* comes from its scrupulous avoidance of cheerleading. Indeed, I came away suspecting that Tanenhaus rather disliked Chambers, or at the very least found his Dostoyevskyan temperament unsympathetic. Yet there is no question in Tanenhaus's mind about Chambers's honesty, and he is just as certain that in spying for the Soviets, Chambers served an unambiguously evil end. The resulting detachment with which he considers Chambers's life and thought, while likely to unsettle conservative readers accustomed to thinking of the author of *Witness* as a latter-day saint, adds immeasurably to the book's vividness: Chambers's bisexuality is discussed frankly (though not salaciously), and his tendencies toward self-pity and self-dramatization are acknowledged straightforwardly.

Modernity was Whittaker Chambers's birthright: he was taught from earliest childhood that there is no truth, and he spent the rest of his life searching for it.

Tanenhaus's detachment also serves him well in assessing Chambers's problematic stature as writer and thinker. He correctly points out that Chambers's interest in "the convergence of religion and politics . . . is what makes *Witness*, for all its morbid imagery and Slavic passions, a uniquely American book, for only in America do religious and political ideals become interchangeable, even indistinguishable." He acutely compares Chambers to Aleksandr Solzhenitsyn, noting that "Solzhenitsyn too would be misunderstood, his asperities interpreted as militant fanaticism." And his explanation of why Chambers proved incapable of finishing *The Losing Side*, his planned large-scale theoretical work on conservatism and Communism, seems to me exactly right:

> He wanted to create a myth of the universe, as Marx, Spengler, and Toynbee had done. Like them, Chambers had an authentic feel for history as poetic drama. But he lacked the intellectual requirements of a system builder. For all his immense reading and his considerable mental strength, Chambers was neither a scholar nor a systematic thinker. . . . His intellectual style was a hybrid of the autodidact's and the educated publicist's. He was a forager of texts, who read widely and collected memorable tag lines he employed as a form of illustrative shorthand, filling out his intuitions and adding them to the accumulated wisdom of his own experience. Much as Chambers deplored "attempts to explain the Communist experience primarily in personal, psychological terms," it was the one thing he really knew how to do. And he had already done it, in *Witness*.

It is, of course, impossible to consider Chambers solely as a writer or a thinker. That is his tragedy. Like so many other men of the Thirties, his life was cloven by history, and by his own fateful choice of action over contemplation. Chambers the promising poet, Chambers the gifted literary critic, Chambers the journalist of near-genius: all were sacrificed on the altar of commitment. But the author of *Witness*, as André Malraux truly said, did not return from Hell with empty hands. If anything justified Whittaker Chambers's acts of treason, it was his decision to tell the truth about them to the House Un-American Activities Committee, whatever the personal cost; if anything justifies his youthful betrayal of his talent in the name of politics, it is the enduring significance of *Witness*, which will be remembered not only as a classic of American autobiography but as one of the founding documents of postwar American conservatism.



As for the case of *United States of America* v. *Alger Hiss*, it was finally closed by the death of the 92-year-old defendant, who presumably kept on lying to his last breath. Now he belongs to the ages, and one somehow doubts they will view his treachery as sympathetically as did his contemporaries. It is one of the not-so-minor consolations of history that Alger Hiss lived long enough to witness the protracted suicide of the evil empire he served so faithfully, and to see its archives thrown open to the searching scrutiny of Western scholars. Bit by bit, the record is being set straight on Communism, and the publication of *Whittaker Chambers: A Biography* marks an essential step toward that goal. The journalists of today may casually subscribe to the notion that Whittaker Chambers was a man of dishonor, but the historians of tomorrow—guided by this indispensable book—will know better. □

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Peace in Our Time?

RUTH DUDLEY EDWARDS

I WAS offered a sabbatical in any trouble-spot of my choosing," a foreign journalist observed to me last year. "I thought about Bosnia and Rwanda, but in the end I opted for Northern Ireland." I was less than astonished: when it comes to tribal warfare, for a quarter of a century Northern Ireland has offered the safest and most rewarding game in town.

The attractions are myriad. Intellectually it is satisfyingly intractable and forever confounds the experts; the natives speak English and enjoy talking about themselves; the restaurants are good, the hotels comfortable, and transport and telecommunications services

"We Wrecked the Place": Contemplating an End to the Northern Irish Troubles, by Jonathan Stevenson (Free Press, 281 pp., $25)

first class; and even at the height of the Troubles paramilitaries tried to avoid killing those who came to study them. As a bonus there is abroad a mistaken notion—even since the ceasefire—that it is a dangerous place to visit: the returned traveler will earn almost as much kudos for his bravery as if he had been dodging machetes on the Zaïrean border.

No wonder that Northern Ireland has been dissected by hundreds of foreign journalists, economists, historians, political scientists, and sociologists. No wonder either that the Northern Irish people have come to think themselves unique and endlessly fascinating.

"They became spoiled and expected special treatment," notes American journalist Jonathan Stevenson, who has lived in Belfast since 1993. The Troubles had convinced them that "sectarian conflict was an immutable law of their unique nature" and allowed them self-importantly "to celebrate their stoicism and their strife and to solicit pity from the rest of the world." Once the killing stopped, they were obliged "to awake to their own foolishness."

Not all of them, unfortunately. As the IRA has demonstrated in the months since Stevenson finished his book, it cannot come to terms with the frustrations of democracy: no more than an old-style Marxist can most republican activists face the truth that their ends have been unrealistic and their means wicked. With a substantial majority of the people of Northern Ireland wishing to stay part of the United Kingdom, and with the British and Irish governments committed to the principle of majority consent, a United Ireland cannot in the foreseeable future be achieved through the democratic process. It cannot be achieved through terrorism either, but many republicans hang onto the illusion that it can.

Kevin McQuillan, one of the many ex-prisoners Stevenson interviewed, denounced the peace process savagely: "At the end of the day, what's it going to get us, after 25 years of horrendous sacrifice, struggle, and suffering we have had to endure, as well as the suffering we have made other people endure? It's going to end up with the republican family becoming partitionist republicans."

Unduly sanguine, Stevenson thinks McQuillan's views untypical. Like many other commentators, he hopes the bomb that broke the ceasefire on February 9, 1996, at Canary Wharf in London was an aberration—planted, as he puts it, by terrorists whose "devotion is merely to the IRA itself, and to the posterity of rebellion for its own sake." Sadly, it is increasingly clear that this remains the cast of mind of many IRA members. And since Sinn Fein/IRA are programmed against a split, the hardliners carry the day.

Yet though recent violence has somewhat undermined Stevenson's hope that Northern Irish society can grow away from the victim mentality (nationalists think themselves oppressed, while unionists feel besieged), this subtracts little from his book, which is built around extensive interviews with 32 IRA and loyalist ex-paramilitaries and a supporting cast of constitutional charac-

Ruth Dudley Edwards is a Dublin-born historian, journalist, and crime-novelist.

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—P. J. O'Rourke

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ters. Writing with an eye to an American readership, Stevenson assumes no prior knowledge: the interviews are placed cleverly in their historical, political, and psychological context, every necessary fact is pithily provided in illuminating footnotes, and several times a position that seems bafflingly irrational is elucidated by a telling international comparison.

Even at the height of the Troubles, paramilitaries tried to avoid killing those who came to study them.

Intellectually rigorous, the book is a comprehensive and brilliant blend of information, analysis, and insight, written with sharpness and wit: it not only would give someone who knew nothing of the problem a first-class grasp of its essence, but also in its freshness and iconoclasm has much to offer even the best informed. If I had to recommend one of the thousands of books on Northern Ireland, I would choose this.

Stevenson was a successful New York lawyer for several years before he became a journalist, and it shows. The virtues and vices, achievements and failures, hopes and fears, and self-justifications of unionists and nationalists in general, and loyalists and republicans in particular, are subjected to scrutiny by a cold and detached intellect—albeit one with imagination and a passion for truth. The British and Irish governments too come under tough criticism.

Starting out objectively, Stevenson has ended his time in Northern Ireland with more sympathy for loyalist than republican arguments. But that was inevitable, for as his interviewees demonstrate over and over again, not only do loyalists have the better case, but they have thought it through for themselves and do not take refuge in romanticism or sentimentality.

When Catholic sectarian murderers went to jail in the 1970s, they were indoctrinated with republican ideology, subjected to authoritarian discipline, and harnessed to the fight against the state through strategically directed disobedience, blanket protests, and even hunger strikes. Their Protestant counterparts—disoriented by being imprisoned by the very state to which they were intensely loyal—took refuge in education and religion: through painful self-examination and argument, loyalists developed their attitudes to politics individually. Among the consequences of these two differing experiences are that unlike many loyalists, most republicans have no remorse for their past actions, have no moral objections to political violence, and suffer from massive self-delusion: in paradoxical consequence, they are brilliant propagandists.

Stevenson critically addresses republican and loyalist misconceptions (for example, that Protestants have no culture and that republicans are subservient to the Catholic Church), class issues (how the nationalist and unionist middle classes flourished while leaving the nasty business to the working classes), and financial and military realities. He is particularly good on the paradoxes. For instance, because republican ex-prisoners are widely accepted in their community as folk heroes, when it comes to elections they "have a ready constituency, but they are dispositionally unsuited to statesmanship without bombs . . . Conversely, the new loyalists have the right attitude for normal politics, but they lack the constituency," for unionists are law-abiding and disapprove of terrorism even when it is pro-state.

Looking to the community as a whole, "The problem in Northern Ireland," says Stevenson, "is not that Catholics and Protestants can't live together . . . The problem is that they have been content to live together and remain willfully ignorant about each other—in particular about how similar they are." Worse than that, the British and Irish governments, eternally these days trying together to work out some compromise that will magically satisfy the center and the extremes, are ignorant too.

They could all learn much from Jonathan Stevenson. However, you can bet your shirt that while loyalists will read him, republicans will avoid his book on principle. □

Fowler, Fouled

JAMES BOWMAN

AS it happened, I read much of this book on an airplane (BrE "aeroplane") operated by Delta, whose uniformed representative welcomed me, among the other passengers, with the portentous announcement that she was Lisa and she would be my "customer service coordinator." As something of a collector of "genteelisms" and "euphemisms" (qqv), I at once sought under the appropriate entries to see if Mr. Burchfield, who is a lexicographer by trade, had caught this latest specimen, with the dew still moist upon its wings. He had not, quite, although he notes as an example under "euphemism" that the chief steward on an aircraft is sometimes called a "flight service director," which is close enough. Indeed, it is impressive in view of the rapid change that such a book must take account of. Next week Delta will doubtless be calling its chief stewards "customer service coordination directors."

The New Fowler's Modern English Usage, edited by R. W. Burchfield (Oxford, 864 pp., $25)

Interesting as many of the entries are, however, Burchfield has the modern lexicographer's undiscriminating respect for change when what is wanted in a usage manual is something more along the lines of an Old Testament prophet, pronouncing anathemas upon barbarous, inelegant, imprecise, and illogical constructions. Somehow such an attitude has seemed to most writers on the subject, since H. W. Fowler published the first *Modern English Usage* in 1926, inconsistent with the disinterested gravity of the scientist, to which they have aspired. The scholar, it is thought, must stand back from the historical processes constantly transforming the language—even to the point of refusing to protest when the above sense of "disinterested" is gradually eroded by a merely ignorant preference for the meaning "uninterested."

Mr. Bowman is American Editor of the Times Literary Supplement.

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On "disinterested" Burchfield concludes by saying merely that "my personal use and recommendation is to restrict 'disinterested' to its sense of 'impartial,' at any rate for the present." What remains unclear is why his personal use and recommendation should be so fastidious when he has shown us so many examples of the vulgar usage and when he has established no general principle (such as that discrete meanings must not be lost) by which that usage could be rejected. The normative approach to matters of usage, a legacy of the moralistic Victorians (whose last and most influential representative Fowler was), is always implicit, but it has nothing more to support it than personal preferences.

Arguments over grammar and usage are always at least as much about social as about linguistic distinctions. Always implicit is the question of what you *are* if, for example, you do not use the possessive with the gerund, or you confuse "flout" with "flaunt." We fear that the answer to that question is that we are ignorant, crude, boorish, uncultivated, and, hence, lower-class—which, I take it, is why the tactful Mr. Burchfield not only refuses to answer it but often refuses to pose it. "Flout" for "flaunt," it's true, he labels "incorrect," but for the most part he does not stigmatize nonstandard forms as "barbarisms" or "uneducated"—or even, always, non-standard. More typical is his description of the failure to use the possessive with the gerund (as in "*him* failing to use" instead of "*his* failing to use"), which he describes as "less formal."

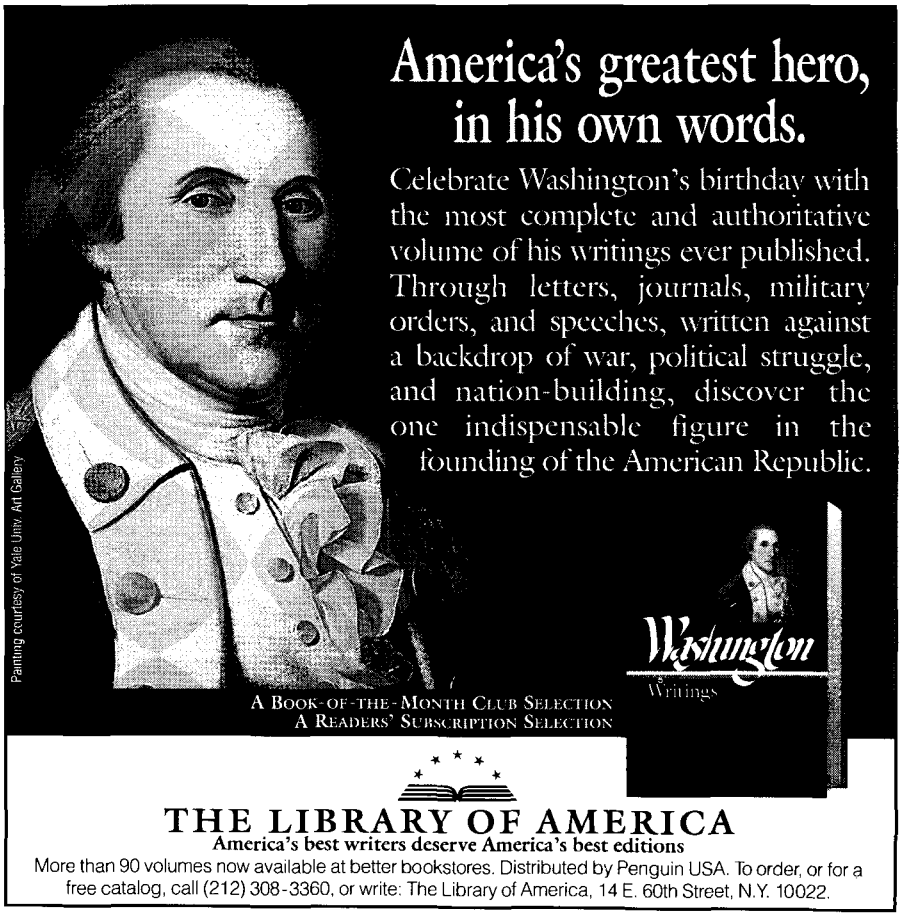
Fowler has clearly become nothing more than a brand name.

This seems to me like calling a road apple "less formal" than a profiterole. The abolition of linguistic stigmas (this form is preferred to "stigmata" in rare instances of plurals in the figurative sense of imputation or disgrace) is like the action of progressive-minded city councils in proclaiming themselves "nuclear free zones." Neither nuclear missiles nor social discrimination will consequently go away, but some people will feel better about themselves on account of the fervency of their desire that such things should go away. Meanwhile, the educated are expected to display such exquisite delicacy as to forbear in all cases and at whatever cost in elegance or precision to point out the ignorance or stupidity of the non-standard writer or speaker. In Burchfield's world it is all right to know the old rules (and most of them he sets out under their appropriate entries), just so long as we pretend that we don't know or care much about them.

Consider, for example, "literally." Using the word as a mere intensifier—as in the comical phrase I once read in an opera libretto: "with their eyes literally glued to the wall"—is as self-evidently erroneous as it is possible to be. Burchfield cannot ignore this. But he proceeds to note that the erroneous usage is a "weakened sense" of the word and provides a string of examples of its misuse from Fanny Kemble, Vladimir Nabokov, and a bunch of journalists. "It's a case," he concludes, "of 'stop, look, and think' before using the word in any manner short of its exact sense." Is this a polite or inoffensive way of saying that we shouldn't use it in its inexact (sc. erroneous) sense? Or is it merely the deprecatory tic of the progressive parent, nervous of appearing authoritarian, who concludes a talk to his teenager about drugs or sex with a limp admonition to think before he acts?

I suppose we should count ourselves lucky that Burchfield will allow us in the above both the old-fashioned use of "deprecatory" ("it is still desirable to keep in mind the distinction," he says, between "deprecate" and "depreciate") and the masculine unmarked gender—the latter on the grounds that its automatic replacement by "he or she" will not be mandatory until "the whole community singly and collectively decides" to make it so. Permissiveness, it seems, can also work in favor of defiant traditionalists. But for the most part, it is nothing more than an evasion of intellectual responsibility. Burchfield is not exactly hostile to a more stringent sense of this responsibility; it's more that he is old and tired and sick of the trouble of enforcing the rules in an anti-authoritarian age.

For instance, although Fowler (who has clearly become nothing more than a brand name) censured as "illiterate" the common use of "due to" as a prepositional phrase meaning "because of," his redactor notes that "hostility to the construction is an entirely 20c. phenom-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enon" and that now "opinion remains sharply divided" on the matter. To him, "it begins to look as if this use of 'due to' will form part of the natural language of the 21c, as one more example of a forgotten battle." Yet the battle will never truly be forgotten for so long as there is anyone left who remembers that the usage was once considered coarse and, well, illiterate. Even though we refrain (an "invisible" subjunctive) from censoriousness or snobbery, if we avoid the construction ourselves as grating on the cultivated ear, is not our fastidiousness itself a reproach to those who simply know no better?

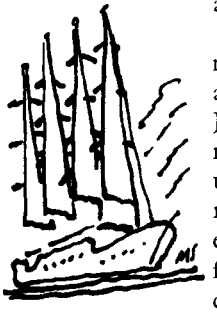
Ultimately, neither elegance nor error are to be wished away by no-fault grammarians such as Burchfield. I imagine him as a well-meaning de-colonizer who leaves behind him a humane and enlightened constitution even though he knows that corrupt and bloodthirsty natives will tear it up within a week of his departure. At least he has done his bit. His hands are clean. But neither has he made life any better, or shown anyone how to write well. □

Small Screen, Big Bucks

NEAL B. FREEMAN

LAURENCE Jarvik is frequently described by sources in the public-broadcasting world as a gadfly. If by that they mean what Webster did, namely, "one that stimulates or provokes to activity by persistent criticism especially of an irritating, pointed kind," they couldn't be closer to the truth.

Over most of the past decade, Jarvik has served as self-appointed court reporter at the high councils of public broadcasting. He has read all the paper —the briefing books, the blind copies, the memoranda responding to your earlier memoranda. He has screened the shows—the furry-animal shows, the Brit shows, the crazy-Left shows, and the token conservative shows. And he has gone to the meetings—the meetings to celebrate the multicultural shows and the non-meetings to bury the dominant-culture shows and, more than now and then, the meetings to plan other meetings. (One of the founding fathers of public broadcasting, James Day, once said of PBS with memorable precision that it was a meeting interrupted occasionally by a program.)



Jarvik's new book is his report on what he learned. For anybody interested in public broadcasting, it is a provocative read, full of stories of an irritating, pointed kind. In a series of case studies, Jarvik begins at the beginning and plows through the celebrated PBS episodes with impressive diligence and sustained indignation.

PBS: Behind the Screen, by Laurence Jarvik (Prima Publishing, 336 pp., $25)

His chapter on the kid shows—*Sesame Street*, *Barney*, et al.—makes a strong case for two propositions. First, that there is precious little evidence that any of these educational shows have educated any kids. I am not sufficiently familiar with the data to assess Jarvik's judgment, but it hangs out there like an accusing finger.

And second, that there is big money in producing educational kid shows. According to Jarvik's figures, *Sesame Street* now has five thousand products under license doing $800 million a year in retail. Revenues of that size would put a for-profit company in the middle of the Fortune 1000. In 1995, the show's production company had socked away $70 million in a stock-and-bond portfolio. That's a lot of nonprofits.

Another financial powerhouse, barely visible behind the begathons on the PBS screen, is the how-to shows, many of them originating from Boston's WGBH. The station got into this lucrative business with Julia Child and has parlayed its franchise with such longtime favorites as *The Victory Garden*, *This Old House*, *The New Yankee Workshop*, and other weekly series. Not only do these series attract corporate funding, but also, according to Jarvik, they permit commercial cross-promotion and even brand-name product placements. That is to say, it's no accident that the camera comes to rest on what is unmistakably a Smith hammer, while Jones's fungible alternative remains unseen. That's a serious charge, given the PBS commandment that funders shall have no control over program content.

Jarvik makes this same incendiary point in a chapter on *Masterpiece Theatre*, long funded by the Mobil Corporation. In an interview with former Mobil executive Herbert Schmertz, Jarvik extracts *en passant* the information that Schmertz negotiated directly with British television executives to secure dramas and "Britcoms" for *Masterpiece Theatre*. In Schmertz's telling, only when agreements were reached between Mobil and BBC principals were the American producers brought into the conversation. (The reader might benefit from other versions of this story.)

Jarvik makes these points about the earning power of PBS not because it is his instinct to shrink from unclean commercial activity. (It manifestly is his instinct to remark, *passim*, on the hypocrisy of the PBS priesthood.) Rather, he seeks to make the case that public broadcasting would in all likelihood survive and even prosper if the federal subsidy were discontinued.

There is precious little evidence that any of the educational shows on PBS have educated any kids.

At the heart of Jarvik's case for a privatized PBS is what he perceives to be a long-running, deep-going pattern of political bias. His chapters on Bill Moyers, *The Advocates*, and William F. Buckley Jr. lay down the argument that PBS is broken and can't be fixed. Of Moyers, Jarvik has much to say, none of it good and some of it psychobabblish: Jarvik spends too many words chasing Oedipal theories through Moyers's employment history with LBJ, Harry

Mr. Freeman is a television producer whose productions have won the Peabody, the Emmy, and, for three consecutive years, the documentary medal of the International Film and Television Festival.

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Guggenheim of *Newsday*, and William Paley of CBS.

But when he moves into tight focus on Moyers's off-again, on-again PBS career, Jarvik scores heavily. He makes a stinging case against Moyers's tendency to promote his own commercial interests while appearing to pursue straight journalistic missions. Jarvik reveals important new details of Moyers's financial stake in the pop spiritualism of Joseph (*The Power of Myth*) Campbell, a stake so significant that, in Jarvik's view, it drove Moyers to ignore accusations of anti-Semitism against Campbell. When Jarvik gets finished with him, it's clear—at a minimum—that Moyers's PBS career has been a celebration of a double standard, one for house liberals, another for everybody else.

Jarvik is on shakier ground when he turns to *The Advocates* and Buckley. He seems to see the former—a weekly, live debate that aired during the Seventies—as no more than a short-term concession to new Republican influence in Washington. Perhaps that was the plan back at Liberal Master Control. But in the event, something of much greater consequence occurred. When conservatives were given half the airtime before a national television audience, a funny thing happened: conservative viewers watched, thundered their approval, and began to demand access to a hundred other electronic platforms. It was quite simply the first time in the television age that a conservative voice had been institutionalized in the elite media. (Jarvik notes that I was a consultant to the program. My only useful contribution was to nominate as the conservative advocate the incandescent William A. Rusher.)

Jarvik strays even further afield when recounting the history of *Firing Line*. He states flatly that Buckley was, is, and will be a PBS token. Further, he seems to believe that Buckley was in some way duped or paid off to provide cover for the ongoing liberal plot. I have it on good authority that Buckley harbored suspicions early on about the prevailing ideological drift at PBS. And after the more than 25 years that *Firing Line* has been on the air, the file is now bulging with evidence of who used whom for what. Bill Buckley's conservative views reached more people on *Firing Line* than through his speeches, his columns, or the pages of NATIONAL REVIEW. The program became an important voice in the national conversation and a critical component in the revival of conservative political fortunes.

Van Gordon Sauter, the former head of CBS News, writes in the introduction to *PBS: Behind the Screen*: "Journalists tend to treat PBS with a sufferance that borders on the devotional." That's quite true in most cases, but not at all true of Mr. Jarvik. In this quietly outraged book, he asks all the tough questions and answers many of them. □

La Grande Horizontale

ANTHONY LEJEUNE

WHETHER a biography is regarded as hostile or merely candid largely depends, no doubt, on the reader's view of its subject. Sally Bedell Smith's exhaustive biography of Pamela Harriman will not please Mrs. Harriman, we may be sure: but it simply unfolds an extraordinary life, making no moral judgments—unless you consider it judgmental to describe someone as a courtesan and say that she continually "embroiders" the truth about her past.

Mrs. Harriman—Pamela *Churchill* Harriman, as she likes to call herself, holding onto the echo of a long-ago first marriage—had trouble, quite recently, with another biographer, Christopher Ogden, with whom she was supposed to be collaborating on her memoirs, but who, when she pulled out, went ahead and published material over which she had no control. She has had even less influence over Mrs. Smith's much deeper-delving work. There is a distinctly humorous side to this whole affair. But Pamela Harriman

Mr. Lejeune is NR*'s longtime London correspondent.*

Reflected Glory: The Life of Pamela Churchill Harriman, by Sally Bedell Smith (Simon & Schuster, 560 pp., $30)

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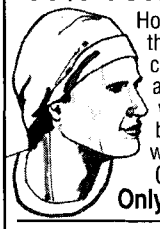

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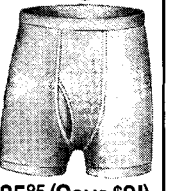

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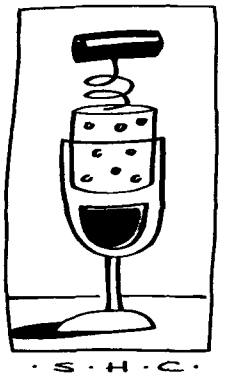
is not noted for her sense of humor, particularly about herself. She has taken her career, if "career" is the word, very seriously; a lifelong endeavor crowned by her appointment, during the first Clinton Administration, as United States Ambassador in Paris—not bad for a fairly untalented (in more orthodox skills) English girl from the shires.

This is an excellently written, highly readable, hugely researched, big book. The source notes alone run to 99 pages. Sally Smith interviewed more than four hundred people. Does she, perhaps, tell us more about Mrs. Harriman than we wish to know? Considered as a sideways glance at the political history of our time, this book may indeed seem excessive; but as the carefully studied picture of a unique personality, surrounded by, and drawing power from, an astonishing array of celebrated men, it repays every moment of our attention.

Pamela Harriman is not noted for her sense of humor, particularly about herself.

Pamela Harriman's father was the 11th Baron Digby; she was born, that is, into an ancient line of worthy but unspectacular English aristocrats, country landowners. Unspectacular with one spectacular exception—the beautiful Jane Digby, who, in the early nineteenth century, ran off with an Austrian diplomat, became the mistress of King Ludwig of Bavaria, married a Greek, and eventually found happiness as the wife of a Bedouin sheik; there had, of course, been plenty of other lovers on the way. It may not be unfair, or even unkind, to suggest that Pamela Harriman takes after Jane Digby. She is, frankly, a *grande horizontale*, whose undoubted admirers—apart from her three husbands: Randolph Churchill, Leland Hayward, and Averell Harriman—included Jock Whitney, Ed Murrow, Prince Aly Khan, Gianni Agnelli, Elie de Rothschild, and Stavros Niarchos.

Neither as a child nor as a debutante did she sparkle particularly. She felt hindered by her parents' unstylish "provincialism," says Sally Smith, making a rare mistake about a rather subtle English usage; an upper-class family, such as the Digbys, cannot by definition be "provincial," which is as much a social as a topographical term. A precipitate wartime marriage to Winston Churchill's son Randolph, who thought he might be killed and wanted an heir, projected her into a different world.



An heir was duly produced—"Young Winston," who has had a low-flying political career of his own and is uncharitably described here as "more Digby than Churchill"; but the marriage was not a success. Marriage to Randolph scarcely could have been. He was explosively turbulent, though not without charm when sober, equally and embarrassingly rude to waitresses and duchesses. I was once sitting in a hotel room with him when a sub-editor on the London *Evening Standard*, for which he often wrote, called to complain that something in his article was obscure. "To the obscure all things are obscure," Randolph thundered and slammed the telephone down; which was typical both in its brutality and in its wit. His attempts to educate his young wife by reading Gibbon's *Decline and Fall* to her in bed were not well received. But he educated her, nevertheless, by introducing her into his father's circle of movers and shakers, and conveying his own assumption that such people are always accessible and usable.

The Prime Minister was much taken with his pretty daughter-in-law. While Randolph was away at the war, Pamela started a passionate affair with Harriman. Sally Smith reveals that this affair was almost certainly condoned, if not encouraged, by Winston as a clandestine source of intelligence about American policy. Randolph, returning from Cairo (where he had himself been unfaithful), furiously berated his parents for siding with his wife.

She came to detest Randolph, who, almost alone among her men, proved quite beyond taming. For some she was too obvious, but many she twisted round her little finger by the exercise of increasingly practiced charms. She ran their dinner parties, flattered them, helped the clever ones to feel clever, and provided care for those who needed care. In return, they subsidized her lifestyle. She spent a great deal of money. She converted to Catholicism in the vain hope (but, who knows, she may have felt a spiritual urge) of marrying Agnelli. When, thirty years after their first meeting, she was reunited with Harriman and married him, she being 51 and he 79, she gave good value, making his old age happy. When he died, she was left, for the first time, a rich woman in her own right, and, no less important to her now, also a political figure in her own right.

Drawing on a lifetime's experience, she reinvented herself, editing her past and shamelessly exploiting the Churchill name, not stressing the fact that her late father-in-law and husband and her son were all Conservatives. Churchillian glamor seems to have worked better on Democrats than on Republicans.

She made speeches (carefully rehearsed in front of a mirror) and wrote articles (or, more precisely, she signed articles which had been written for her). She chaired a large-scale fund-raising committee for the Democratic Party, which certainly raised large funds but the primary purpose of which was Pamela-promotion. She didn't offer much in the way of political thought, but then political thinking was never her strong suit. She explained her leftward conversion by citing the early influence of Harriman and Murrow and all the socialists "I knew and admired" during the war. She made, as always, useful friends and used the friends she had. She was determined now to be taken seriously. And, on the whole, what Pamela Harriman wants she gets. She maneuvered for, and got, the Paris Embassy; which gave her particular pleasure because, when young, she had been snubbed by British diplomats there.

Nevertheless, her old aptitude for tripping herself up remained. She has had money troubles, involving litigation with the Harriman family, and patently still has biography troubles. Is she an enviable figure? An admirable figure? An absurd figure? The answer must be a matter of taste. She certainly merits fascinated contemplation, which Sally Smith amply provokes. A European woman who knew her in the old days remarked of her transformation, "She has made herself virginal again." Groucho Marx famously said that he had been around so long that he knew

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Doris Day before she was a virgin. To have known Pamela Harriman before she was a virgin implies neither great longevity nor exclusivity but does entitle anyone to boast of membership in a star-studded company. □

FILM

Out-hamleting Hamlet

JOHN SIMON

KENNETH Branagh suffers from the theatrical equivalent of a Napoleon complex: an Olivier complex. But where the old-time madmen were content to be Napoleon, Branagh must go one better: be a Roland for an Oliv(i)er. Now, though we know that the saying means tit for tat, we also know that Roland is really the bigger cheese. Of that most valiant of Charlemagne's paladins we know his famous sword Durandal, his famous horn Olivant, his famous death at Roncesvalles. And Oliver (Olivier in French)? For all we know, he may have blown a pennywhistle and fought with a cudgel.

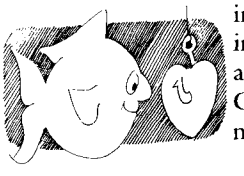
So Branagh made a *Henry V* meant to outdo Lord Olivier's—and in fighting in the mud it certainly did. And now he gives us a ***Hamlet*** to out-hamlet Olivier, or out-herod Herod (*Hamlet*, III, ii, 14). Whereas Olivier cut his 1948 movie of *Hamlet* down to 144 minutes, Branagh inflates the customary First Folio text with enough of the Second Quarto to boost the running time (with a brief intermission) to four hours and two minutes. Like Olivier, he dyed his hair blond for the Prince, but has added a mustache and goatee. And whereas Olivier chose a semi-fluffy bob, Branagh opted for a more austere, military cut.

Either way, though, the blondining of Hamlet results in a kind of Breck Shampoo ad, or, more succinctly, a sham. An anonymous woman can go from brunette to blonde with impunity. But when a male movie star pulls such a stunt, it stunts his performance by focusing attention on his hair. (As if, incidentally, there were no brown-haired Danes.) In Branagh's case, what emerges is a Teutonic petty-functionary look: Hamlet as a prissy customs official or court stenographer.

We know that Hamlets come in sundry guises. Mainly, though, there have been mad Hamlets, poetic Hamlets, dreamy Hamlets, and procrastinating Hamlets. Latterly, the inevitable backlash has spawned vigorous, macho Hamlets—as it were, muscular-Christian Hamlets—whose dilatory tactics were just a strategic disguise. These ultravirile Hamlets are often at odds with the text, but as we know by now, texts are there only to be deconstructed.

So Branagh's Hamlet is an active, brawny one, but brawn with guidance from the brain. When he soliloquizes, he shifts into a somewhat countertenorish poetic gear; when he interacts with others, he is all businesslike efficiency, and none of that John-a-dreams stuff. Such a split—not between action and dilatoriness, but between recitalist and routinist—is possible to condone, but not easy to like.

Even four hours won't do for novelty; the scenarist–director must contribute flights of fancy of his own. One strategy is to supply explicitness where Shakespeare, in his woefully uncinematic way, settled for subtlety or mere suggestion. Accordingly, we now see Hamlet and Ophelia carrying on in bed; Polonius, moralizing hypocrite that he is, with a prostitute slinking out of his bedchamber; Ophelia, this being a late-nineteenth-century *Hamlet*, in a padded cell and straitjacket being hosed down; Fortinbras's army bursting through the very walls of the throne room—an idea probably gleaned from Ingmar Bergman's similarly questionable stage version.



Branagh the showman believes in gigantism: he may not be big on thinking, but he does think big. Olivier was willing to settle for a modestly historic Elsinore castle; Branagh needed Blenheim Palace, Britain's biggest and grandest. The multi-mirrored throne-room, where much of the action takes place, is a kind of fun house out of Cecil B. De Mille, although C.B. would not have been ready to admit anachronistic two-way mirrors. Like De Mille, Branagh gives us a Norwegian army that looks to be easily Shakespeare's twenty thousand, and is particularly impressive when seen in the background marching over snow and ice while Branagh intones "How all occasions," etc. It is always nice to have such ample company for your soliloquies.

Another splendid innovation is the snow. Just as Scandinavians must be fair-haired, the ground under them must be snow-clad. Real snow is often not readily available, but that's where blondined—sorry, bleached—cornflakes come in. You've never seen such snow in non–polar-expedition movies, and I sincerely hope it can be recycled for a future remake of *Scott of the Antarctic*. Among minor wonders, let me cite the vast pool of blood around the slain Polonius (who would have thought the old man had so much blood in him?) and Claudius's demise via Hamlet's tossing a sword into his back from a considerable distance. Much as I have searched back issues of the Wittenberg University catalogue, I cannot find courses in circus skills such as knife-throwing.

Finally, with an unerring eye to the box office, Branagh has cast big-time international actors in bit parts. So we get Jack Lemmon, Charlton Heston, Rosemary Harris, Billy Crystal, Robin Williams, and the ubiquitous Gérard Depardieu as a cigar-chomping Reynaldo. There are even fleeting, wordless glimpses of John Gielgud as Priam, Judi Dench as Hecuba, John Mills as Old Norway, personages merely alluded to in the text. But no Herod during the reference to him (see above). Of all these, only Crystal's First Gravedigger manages to register positively.

Some of the casting works. Derek Jacobi is suitably slick and sleazy as Claudius (an actor-proof part if ever there was one), and, after a long absence and in an atypical role, Julie Christie is a lovely and touching Gertrude. Richard Briers is a plausible Polonius. Brian Blessed does as well as can be by a horror-film Ghost, and Rufus Sewell contributes the fiercest Fortinbras ever. Particularly gratifying is the mute but splendid equestrian presence of the Duke of Marlborough as Fortinbras's general, in exchange, no doubt, for the loan of Blenheim Palace.

Mr. Simon is NR*'s film critic.*

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But Kate Winslet is a bovine milkmaid of an Ophelia, Nicholas Farrell a smarmy, vacant-faced Horatio, and Michael Maloney a pipsqueak of a Laertes—surely lest they compete in any way with Branagh. He himself asked from his cast "direct, accessible relation to modern life," and in the Hamlet–Ophelia copulation scene and Polonius's postcoital morning sequence, he certainly got it.

In Portrait of a Lady, *John Malkovich offers the year's worst performance: a Chicago meat-packer's notion of a Jamesian exquisite.*

■ Jane Austen having been pretty much depleted, the movies are rediscovering Henry James. Denis Donoghue, in the daily *New York Times*, hails Jane Campion's ***Portrait of a Lady*** as "intriguing"; another distinguished Jacobite, Cynthia Ozick, in the Sunday *Times*, laments, "What crudity compared to what the novelist saw!" Miss Campion, whose *The Piano* I found insufferable, starts this film with an invented scene of today's youth clad in white discussing love in a bucolic setting. Ugh!

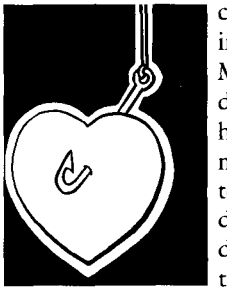
Next, we get John Gielgud as the very American Mr. Touchett, and—likely story—Shelley Winters as his wife. Forthwith a fancy death scene for old Touchett, watched over by his niece, Isabel Archer (Nichole Kidman), who later on will hurry to the dying young Ralph Touchett's bedside—neither scene to be found in James. Gielgud's last gasp looks like a yawn and, considering the circumstances, may well be one. The tubercular, sickly son, Ralph, is played by the robust, almost beefy, Martin Donovan, and on and on the miscasting goes. Everything that James left in a mist of ambiguity is here dragged out, if not into the open, into the stifling chiaroscuro of Stuart Dryburgh's cinematography, in which faces glow in the dark like naked lightbulbs.

Poor Nichole Kidman has features that cannot support an upswept hairdo, and looks like a disgruntled provincial librarian. Miss Campion and her screenwriter, Laura Jones, stick in all kinds of feminist fustian, most garishly in a bedroom fantasy where Isabel couchant is fondled by three of her suitors rampant. This is James for the modern sensibility—everything spelled out, with misspellings added. When the caddish aesthete Gilbert Osmond appears in the person of the repellent John Malkovich, the jig is up. This is the year's worst performance: a Chicago meat-packer's notion of a Jamesian exquisite. *Portrait of a Lady*, however unconsciously, confirms Jane Campion as the champion of camp. □

BOOKS IN BRIEF

High Latitudes, by James Buchan (Farrar, Straus, 192 pp., $22)

I HAVEN'T done a stroke of work since I came upon *High Latitudes* yesterday afternoon. Buchan, a former correspondent for the *Financial Times* of London, puts his knowledge of the world of international finance at the service of a deeply assured, mesmeric style, as if Faulkner had undertaken to rewrite Paul Erdman or Jeffrey Archer on a bet (and won). *High Latitudes* explores the intertwined stories of the brilliant and aristocratic Johnny Bellarmine, about to be ruined by unfunded insurance liabilities at Lloyd's, and Jane Haddon, a textiles CEO up from nowhere by dint of sheer brains and hard work. Between them moves Stephen Cohen, a rich and insecure investment banker in love, somehow, with both of them. Scenes of dealmaking in the City of London and the canyons of Manhattan alternate with breathtaking episodes in the American Northwest, where Stephen goes to examine the oil spill that threatens the solvency of Lloyd's, and Bellarmine, Alaska, where Johnny seeks himself in the spirit of a great navigator-ancestor who sailed in search of the Northwest Passage two hundred years before, and left his name to a pioneer town. Elliptical in the best sense, Buchan drops us into his narrative *in medias res* again and again, forcing us to build and rebuild the context for his swift-changing scenes as we read, bringing his world to life around us. Marrying the pace of a financial thriller with the social breadth and assurance of a Galsworthy novel, Buchan assembles a rich and tragic tableau of an England caught between the old and the new, the whole undergirded with a deeply traditional sense of the integrity of narrative that guarantees as rich a reward for our efforts as Buchan deserves for his own. —Saul Rosenberg



Alias Grace, by Margaret Atwood (Doubleday, 468 pp., $24.95)

T. S. ELIOT once wrote that Henry James had "a mind so fine that no idea could violate it." In *Alias Grace*, as in her previous novels, Margaret Atwood has allowed her somewhat less fine mind to be violated by a decidedly less fine idea: that being a trendy academic feminism which decrees that men are mostly misogynistic or condescending, and that women are pitted against one another for the favors of the patriarchy. This novel is based on an actual nineteenth-century Canadian murder case in which a servant, Grace Marks, was convicted of murdering her employer and his housekeeper/mistress; the dramatic action concerns the attempt of an American doctor during Grace's incarceration to discern the "truth" regarding the murders. Of course, it hardly matters what *Alias Grace* is supposedly about, since its purpose isn't literary. Readers familiar with Miss Atwood's fiction will note the presence of several vintage stereotypes: the housekeeper is a catty competitor worried about ceding her place in her master's affections to a younger rival; there is the protective female friend who dies of a botched abortion; Grace alternates between the winsomely innocent and the whorishly evil, depending on what male character she's trying to impress; and the doctor is carrying on an exploitative affair with his landlady. This said, I fully expect *Alias Grace* to become a favorite classroom text of feminist English professors, and probably a movie starring Winona Ryder besides.

—Mitt Beauchesne

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McARDLE

(Continued from page 43)

moval of two screws from a cover plate to get at that wire. Miss Dale denied in sworn testimony having done it.

But if ABC has nothing to hide, why did it originally leave out key segments of the tapes when ordered to provide Food Lion with copies? Why did the copies provided by ABC, which owns the best in high-tech video equipment, seem to be copies of copies of copies, at least one segment re-recorded on used tape? Why were multiple "cutting signatures" found on the tapes?

Whether or not ABC staged anything, it certainly engaged in misleading editing. An employee washing up at a sink seems to be slipping on a grease-covered floor, which suggests dirty, unsafe work conditions. But ABC made sure its viewers didn't see that the man and the woman beside him were smiling. When you view the whole tape you see that it wasn't grease. The employee had spilled soapy water on the floor and was fooling around, doing a kind of Michael Jackson "moonwalk," as his colleagues laughed.

ABC showed a female employee complaining that some marinated chicken was out of date, the implication being that it went out for sale. What ABC didn't show was the same women seconds before saying, "I dumped it," and seconds afterward saying, "I went and told Mr. Alexander [the manager]. He told me to dump it and go back and get fresh chicken."

The fact is that Food Lion—which is not unionized—is superior to most other supermarket chains in the country, not just in price but in the freshness of its products and the helpfulness of its employees. The quality of the stores is why the company's sales, earnings, and stock price have rebounded tremendously after what could easily have been a mortal blow from ABC in 1992.

The Capital Research Center, in a November 1995 report, quoted government investigations in Maryland which found almost no difference between Food Lion and its unionized competitors on sale of outdated meat, dairy, and grocery products. But in categories of sanitation and vermin control, Food Lion was much better than the unionized chains. Three competing unionized chains had between 6½ and 22 times as many incidents as Food Lion in three categories of sanitation and vermin offenses. Food Lion compared well in a Virginia study too.

Paradoxically, it is really this success that has caused Food Lion its problems. The chain became a huge threat to the United Food and Commercial Workers Union, which targeted it for punitive action as far back as the early 1980s. Douglas Dority, the UFCW's international president, said of "the non-union chains—the Food Lions" during a 1990 conference, "We must either reduce these chains' market share . . . or we must put them out of business. There is no other option."

And the union has been trying to destroy Food Lion through a corporate smear campaign by its front groups. Diane Sawyer acknowledged that it was "the Government Accountability Project, a kind of support organization for whistle-blowers," that suggested that ABC investigate Food Lion. GAP is actually a spinoff of Washington's far-left Institute for Policy Studies. But ABC never mentioned that GAP was working closely with the UFCW.

Lynne Dale said in a deposition that every one of the former Food Lion employees on the program was referred to her by either GAP or the UFCW. Moreover, neither she nor Susan Barnett would have been hired by Food Lion at all without the falsified job references provided through the UFCW and the temporary jobs the union helped them get in order to train them.

Miss Barnett used to be with a Naderite activist group in Chicago, the Better Government Association. She got the Food Lion idea from GAP. Miss Dale, independently, was urged to look at Food Lion by Washington publicist Neel Lattimore, now press secretary to Hillary Clinton. It is clear that the two producers and the union were interested in exactly the same thing: a program that would hurt this large, non-unionized company.

Food Lion wisely sued for fraud and trespassing, not libel, because current libel law has "proven to be an almost impenetrable bullet-proof vest for the media," as one Food Lion lawyer put it. Next, both ABC and Food Lion are likely to appeal, with a good chance that the case will reach the Supreme Court. That's when the real question will be answered: Does the First Amendment allow tabloid "journalists," in the course of doing a hatchet job, to break laws against trespassing and fraud that everyone else must keep? □

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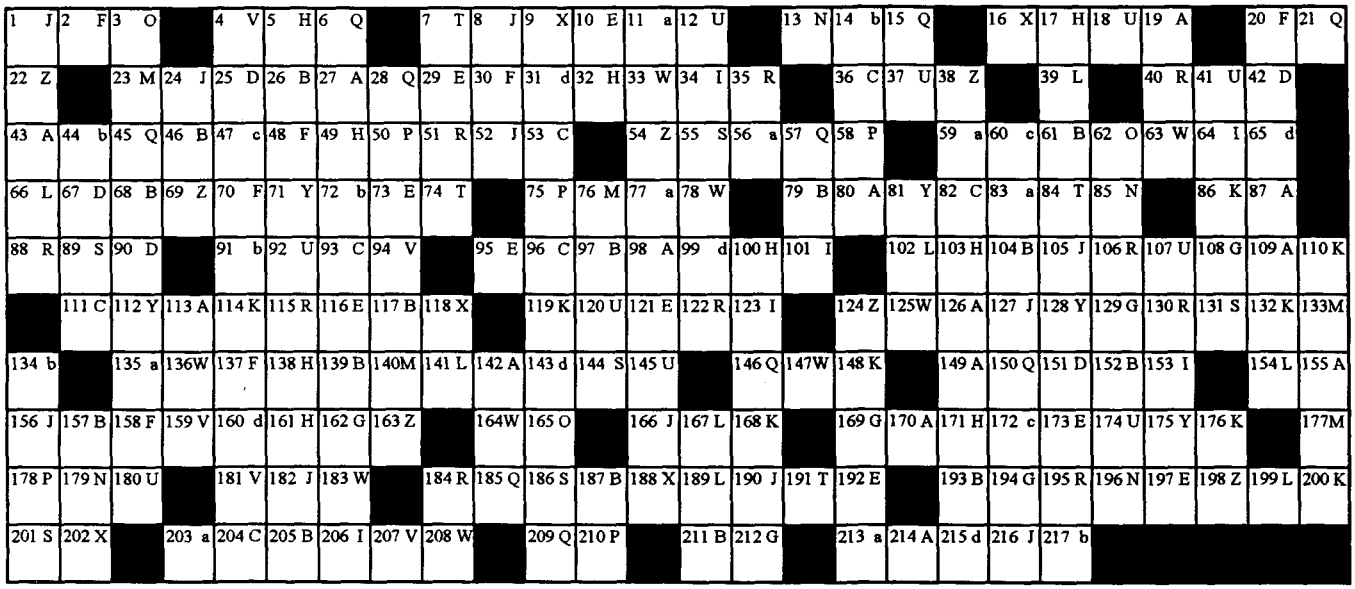
TRANS-O-GRAM / Siegfried R. Reiner



DEFINITIONS

A. CFR's journal (2 words): 126 214 170 87 155 27 19 109 149 43 142 / 113 98 80

B. Historical papal convocations (2 words): 104 68 211 46 97 79 152 157 139 205 117 / 187 26 61 193

C. Public reproach: 96 36 93 111 204 82 53

D. Repair to the standard: 67 151 25 90 42

E. Formal mode of utterance: 73 173 116 95 10 29 121 197 192

F. *NR* contributing editor who treats of first things first: 20 30 158 2 48 70 137

G. Dodge for moral cowards (hyph.): 108 212 169 162 194 129

H. Domain of Smith, Ricardo, Keynes, et al.: 17 100 103 5 171 32 161 138 49

I. Errant rider: 153 34 206 64 123 101

J. The first Def. B (1123) was to settle this controversy: 105 24 216 8 156 1 190 166 182 52 127

K. Honeymooners: 114 132 119 110 148 86 168 200 176

L. First Fibber's understudy in the House?: 66 199 102 167 39 141 154 189

M. Northernmost Germania, to Tacitus: 177 76 140 133 23

N. Chances to occur, falls out: 13 179 196 85

O. Wee man with pointy ears: 3 62 165

P. Barbarians who overran Rome: 58 50 75 178 210

Q. Cavaliers' opponents: 150 21 209 57 185 28 45 146 6 15

R. Disinfectant: 88 51 35 130 40 184 195 106 115 122

S. Bookbinder's calfskin: 131 144 201 89 186 55

T. Cupid: 84 7 191 74

U. Shadow outline: 145 107 41 120 92 37 174 12 180 18

V. Opinion pages (hyph.): 181 207 4 94 159

W. Worldwide rubber concern: 125 136 183 63 208 78 164 147 33

X. Bottomless pit: 188 16 202 118 9

Y. Bivouacs: 128 71 175 112 81

Z. Accompanies, follows: 54 38 22 124 163 69 198

a. He shared a tyrant's feast under swordpoint: 135 77 83 56 59 11 203 213

b. Coarse: 217 14 44 72 91 134

c. Menacing crowd: 47 60 172

d. Marx's collaborator: 99 31 143 65 215 160

DIRECTIONS

The object of TRANS-O-GRAM is to fill in the puzzle diagram by guessing the words from their definitions, and transferring each letter of the guessed word to the correspondingly numbered square in the diagram. When the diagram is filled in it will spell out a quotation from some published work (reading normally from left to right, black boxes indicating the ends of words); also, when the words have all been filled in above, their initial letters will spell out the author and title of the quoted work. The acrostic feature, and the relative word-lengths in the diagram, will assist in the solution. Spelling and definitions on the authority of *Webster's Deluxe Unabridged Dictionary*, Second Edition.

Solution to last issue's Trans-O-Gram. LT. GEN. B. O. DAVIS JR.: *Autobiography*: "The Army still regarded all blacks as totally inferior to whites—somewhat less than human, and certainly incapable of contributing positively to its combat mission. But we were only months away from war with Japan, Germany, and their allies, and events . . . would prove once and for all the fallacy of that position."

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ON THE RIGHT / Wm. F. Buckley Jr.

Poor Paula Jones

NEW YORK, JANUARY 14

On the Paula Jones business, what are the points that have crystallized?

1. If the Court permits the case to proceed against Mr. Clinton, it will not involve the immobilization of the Chief Executive. Justice Souter and again Justice O'Connor said, in various ways, addressing the defendant's attorneys: Look. We are not suggesting that if simultaneously the Paula Jones judge issues a subpoena for the President's appearance and Japan declares war on us, the President will have to go to the courthouse instead of the war room.

Driving that point home took rather more time than one would have thought necessary, but after all, it is the open strategy of the defense to argue that the President of the United States simply can't be distracted by long and tedious civil suits while he is in office.

2. Some pleasure was to be had from hearing such big-time lawyers as Mr. Robert Bennett going on about the travails of victims of civil suits. The smiling over that one has to do with President Clinton's indenture to the predatory lawyer class which asks for, and often gets, preposterous judgments for relatively trivial offenses. Tort-damage reform has been on the GOP agenda for several years, which resulted in the trial lawyers' association contributing a whopping $2 million to Democratic campaigns. It is fun to hear the representative of a predatory class outline the terrible public consequences of litigious greed. (Mrs. Jones, incidentally, has been asking for $700,000, which is less than one-third of the money Mr. Clinton has already spent in defending himself.)

3. The behavior of the Emily's List-type ladies is the crowning hypocrisy. These are women who pledged themselves for all time to end the political career of any senator who voted to confirm Clarence Thomas. The reason for this, Emily says, is obvious: Anita Hill was the object of sexual harassment by Clarence Thomas.

But how do we know this? one is likely to ask.

Idiot! We know it because sexual harassment is rife. . . . And because Anita Hill is a Yale graduate, and incapable of lying. . . . And because Clarence Thomas is a conservative and therefore presumptively unreliable. Can't you add up two and two?

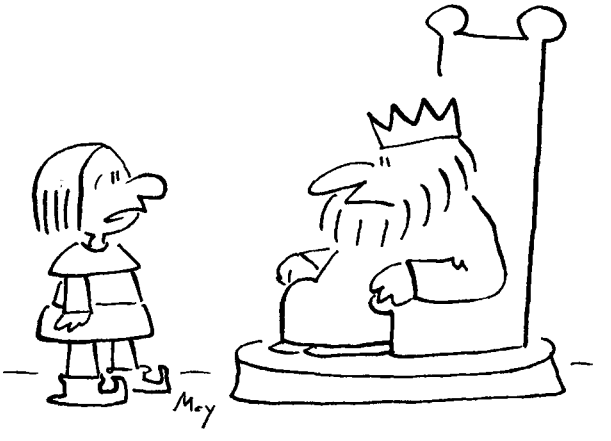
There is some discomfort out there in the feminist ranks over the presumptions against Paula Jones. James Carville understood the situation perfectly when he opined that when you drag a hundred-dollar bill through a trailer park, you come up with such as Paula Jones. It's informative to hear such language from a Tobacco Road populist.

But finally,

4. we have to acknowledge that the President of the United States has responsibilities that inevitably give him distinctive protections. Over the weekend viewers could amuse themselves by watching PBS's *A Royal Scandal*, depicting the fervent sexual activities of a Prince of Wales (not the incumbent). One wonders where Emily was when most needed. Prince George married a Catholic girl and lived with her. Then he went to a mistress. Then he imported a princess from Germany to firm up the blue bloodlines of an heir, which he managed to procreate, but quickly distanced himself from the princess and years later, never mind that she was now "queen," denied her access to his coronation at Westminster. In between he had other mistresses. Wanton love-life is an apanage of the royal class, and we don't mean just King George IV, but also Warren Gamaliel Harding.

It is by no means to condone the sexual behavior of Mr. Clinton, pre and post Paula Jones, to accept the realities of presidential eminence. True, Paula Jones was an unwilling vehicle for his lust, and for that reason the Court must not under any circumstances—indeed, it cannot—simply make the charges go away. But the compromise everywhere suggested is reasonable: to permit the taking of affidavits while memories are fresh, and wait until the millennium to actually bring the defendant to court.

It would have been much easier if my advice had been taken three years ago, which was to raise the $700,000 and give it to Mrs. Jones, with a note saying: We don't agree that Mr. Clinton is guilty, but pending a revision of tort laws, this is cheaper than engaging in a defense against your charges. □



"Bad news, Sire. Parliament has cut funding for your hot tub."

Nixon And Anti-Semitism

NEW YORK, JANUARY 7

In the most recently revealed tapes Mr. Nixon spoke direct language, threatening in nature. In one conversation, adduced by the *San Francisco Examiner*, he addresses John Ehrlichman. "John, we have the power. Are we using it to investigate . . . the Jews—you know, that are stealing in every direction? Are we going after their tax returns? I can only hope that we're doing a little persecuting." And five days later to H. R. Haldeman, "Now, here's the point, Bob. Please get me the names of the Jews. You know, the big Jewish contributors to the Democrats. Could you please investigate some of the [expletive]?" And, the following day, again to Haldeman: "How about the rich Jews? The IRS is full of Jews, Bob."

Christopher Matthews of the *San Francisco Examiner* asks, "How will Henry Kissinger . . . digest these words? How will William Safire, the great Nixon speechwriter, square this Nixon with the man he served so devotedly? Or Herb Stein, Nixon's top economic advisor?"

The question, as asked, is extraordinarily naïve. It misses the entire point about Nixon, which is that he was a paranoid who consoled himself by excoriating real and fancied enemies. His anti-Semitism, we are by now entitled to conclude, was his King Charles's head—a psychological buzz activated when he felt threatened or victimized or simply querulous. We know from the tapes that he

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gave expression to his hobgoblin in the presence of Ehrlichman and Haldeman and Charles Colson. It is at the least unlikely that others in his close circle were unaware of the problem.

But surely the question to ask Messrs. Kissinger and Safire and Stein isn't, Why did you agree to serve someone who was anti-Semitic? They could answer that they didn't know that President Nixon was anti-Semitic, odd though it seems. Or, they might say: Yes, we were aware of his anti-Semitic banter and found it deplorable, but it never translated into anti-Semitic activity.

That, surely, is credible. We know that nothing was done via the IRS to hit prominent Democrats, let alone prominent Jewish Democrats. It is nowhere even suggested, quite the contrary, that Mr. Nixon's views on American Jews translated into policies inimical to Israel. And at the outset, surely the *San Francisco Examiner*'s Mr. Matthews should wonder how, if anti-Semitism were in any sense a defining bias of Mr. Nixon's, he could have surrounded himself by such as Kissinger, Safire, and Stein . . .

The temptation is to think the worst of someone whom one loves to hate. I have first-hand, from a source I'd as soon disbelieve as I would the Holy Ghost, an account of Mr. Nixon soon after his re-election. There were just the two of them, my friend, after resigning his post, calling to say goodbye to someone he had known and worked for for many years.

Nixon was in a rage that day. Against the Jews? No. "I have given orders, you ought to know, that not one Ivy League graduate is going to step foot in the White House while I am President. Ask Bob Haldeman, on the way out, whether it's not true, that I have given him exactly that instruction!" Nixon had a thing about the Ivy League (even though he had been accepted by Harvard when he sought admission as an undergraduate). But like other of his things, it was all foam, no teeth. Presumably at some point in the future the hardy examiners of the presidential tapes will report on his Ivy League phobia. At which point it will be appropriate for Mr. Matthews to ask, "Given how Nixon felt about the Ivy League, how could you consent to work for him as devotedly as you did?" That question could be asked of about one hundred Ivy Leaguers who worked for Nixon.

Nixon, as a human being, was a sad mess, with his suspicions and his fears and his loose bigotry. The tapes were a dismal mistake, perpetuating ideological and psychotic doggerel that fascinates the minds of those who are fascinated by scandal. The true miracle of the Nixon phenomenon is that he managed to bestride his own failings sufficiently to serve as an effective President with a flair for international diplomacy. The dimly concealed glee with which his enormities are treated tells us something about the society he thought himself well equipped to govern. □

To Help to Die

NEW YORK, JANUARY 10

In the heavy discussions over doctor-assisted death last week, several arresting points were made, one of them in the formal hearing before the Supreme Court, the second in analysis done in news journals. What Justice Ruth Bader Ginsburg said echoed Pontius Pilate, asking why he should be called upon to send Jesus to Calvary. We all know that when Justices express their misgivings about a case that is being pleaded, it is by no means to be assumed that those misgivings are critical, let alone dispositive. Their purpose is to invite the petitioner to address a particular problem, in this case the problem Justice Ginsburg had in wondering why, at this particular moment in American history, the Supreme Court was being called in to decide what should be legal for a doctor to do.

Who decides these things? The Supreme Court has for so long acted as a moral tribunal, one tends to forget that self-governing societies are called upon to decide critical questions. Congress tells us when to go to war and how high our taxes need be. The states decide what qualifications a doctor has to have in order to be entitled to practice medicine. One of those qualifications is a reflection of the doctors' oath to do everything that can be done to preserve life and reduce pain.

The idea is to subordinate the doctor; to make him, in certain circumstances, a biological mechanic, at the beckoning of his patient. If the patient decides to end his life, it is maintained by the petitioners that the doctor should be obliged to assist in the process. Those doctors in sympathy with the movement are telling us that their skills are unique to effect what the patient desires—and that what the patient desires is the operative consideration. A new right.

The traditionalists argue that if there is political acquiescence in the proposition that such is the patient's right, let that be reflected in altered laws in those states that take that position. But then too there are those who argue that even if it were acknowledged as a right of the individual to terminate his life, the same doctor whose profession is to prolong life should not be expected also to accept the obligation of ending life. Unquestionably the Court will confront the philosophical question. Even if the patient has the right to die, individual states (and the medical fraternity) should continue to exercise the right to decline to serve as the agents of death.

The most interesting finding, from thorough research into the sentiments that govern those who would wish help in ending life, is that the greatest concern isn't pain. Fewer than 30 per cent of patients in extremis fear that their doctors will not protect them from physical agony. No, the primary concern is for death "with dignity." This surely is the most compelling argument for assisted deaths. The patient who contemplates a year or more with increasingly intrusive needles and pins and tubes and lotions, and helplessness. It is wrenchingly sad to contemplate the kind of end to which certain diseases point us.

Yet we fear also the evolution of a culture that puts a certain premium on death, sooner than it would come by natural means. The grandmother told she has a cancer that will ravage her body and exhaust the family nest egg will begin to wonder whether she should think it a duty to her children and grandchildren to remove this expensive cause of their concern—how could it be otherwise? And, of course, there is the fear that the medical profession will gradually orient its strategy by the utilitarian imperative: All things considered, does it make sense to keep this particular patient technically alive? The fear is of that gradualism now widely associated with the Netherlands, where nothing much is said if at a manifestly convenient moment, the doctor's anaesthetic dose is mortal.

Professor Laurence Tribe of Harvard attempted to erase the distinction between the patient's withdrawing the life-preserving tube herself (she is at liberty to do this, under the law), and the doctor's withdrawing it at her request. But these are more merely than philosophical niceties. The individual is at liberty to jump off the George Washington Bridge. The doctor who helps her over the railing is transmogrified, the catalyst of death.

No wonder Mrs. Ginsburg acknowledges a reluctance, constitutional yes, but also psychological, to redefine the medical profession. □

(Universal Press Syndicate)

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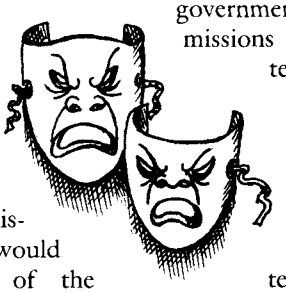
THE MISANTHROPE'S CORNER

FLORENCE KING

MY solution to the Ebonics question is simplicity itself. As far as I'm concerned its proponents can take a flying phuclld-dyrhc (a Greco-Welsh patois learned at my mother's knee and other low joints), but I am fascinated by the psychodynamics surrounding the controversy.

The moment the media reported that the president of the Oakland school board had called black English "genetically based," honchos of color heretofore famed for their support of any and all things African launched such a swift and unequivocal attack on Ebonics that they sounded like H. L. Mencken. Jesse Jackson called it "an unacceptable surrender bordering on disgrace" and predicted Oakland would become "the laughingstock of the nation." "The very idea," Maya Angelou huffed, was "threatening," and NAACP president Kweisi Mfume contemptuously dismissed it as "a cruel joke."



This unexpected switch from the excellence of self-esteem to the esteem of the excellent self took white America, and particularly white punditry, by surprise. Among the latter the chief reaction was intense relief, the kind of relief that makes people giddy. While blacks were sounding like Mencken hurling thunderbolts, pundits were sounding like someone who just found his lost wallet and discovered that all his money was still there.

Whimsy and gaiety ruled. Before congratulating Jesse Jackson ("Bravo, Jesse"), Mona Charen confided that she loves the black-English song, "Is You Is or Is You Ain't My Baby?" Mary McGrory went on a *My Fair Lady* kick, rattling merrily on about 'Enry 'Iggins, Eliza the "squashed cabbage," and Alfred P. Doolittle doing the old soft shoe to "A Little Bit of Luck." Clearly ready to burst into song herself, she called on Education Secretary Richard Riley to get "an emergency company" to perform the musical in Oakland. "Who knows," said she gulpily, "everybody might do a little laughing and singing and open up to the idea that learning can be fun. . . . Give them *My Fair Lady*, send AmeriCorps to the rescue, and they'll be all right."

Be still, my heart. I find no cause for relief in the furious black opposition to Ebonics. Quite the contrary. When a people who have demanded separate congressional districts, separate government contracts, separate admissions policies, separate IQ tests, separate history, and separate justice suddenly recoil from a separate language, my first instinct is to look for an exposed nerve.

Afrocentrism flatters blacks and affirmative action mollifies them, but telling them that English is their second language makes them feel like the one thing they have never had to worry about being: foreigners. Throughout our history, whenever nativists and immigrants have squared off, blacks could savor the satisfactions of being on the entrenched side for a change. The tacit pleasure they took in being on a genealogical par with the most jurassically credentialed members of Colonial Dames and First Families was finally spelled out in *Roots*.

Ebonics threatens this cachet by putting blacks on a par with Hispanics, whom they resent and whose numerical encroachment is much on their minds. When I combine what every white Southerner knows about black snobbery with the Menckenesque quality of the broadsides hurled by the leadership, I am persuaded that the exposed nerve is, if you will, "black nativism."

But who cares about my theory now that Jesse Jackson has changed his mind? He just attended a public forum in Oakland to lead his new chant—"Limited-English proficient funds!"—even as Mary McGrory was clicking her computer mouse to simulate a castanet accompaniment for her solo about the rain in Spain. Now all of the formerly relieved white pundits are up the creek and everybody's wallet is missing again.

As with every racial controversy, the repositioning, backpedaling, and caving have begun. The clippings promise to be a bonanza for anyone who writes "GOD!" in margins, so to save time I'm using the new rubber stamp I just had made. Herewith a couple of already sanctified items:

"If I was Hispanic and spoke no English, you would communicate with me in Spanish and help me make the transition to English," said Robert Williams, who invented the word "Ebonics." This was quoted by the *Washington Post*, which tactfully ignored the missed subjunctive: If I *were*.

Stanford linguist Merritt Ruhlen: "If history had gone differently and Africans had come over and founded America and raided Europe and brought white slaves over, and this country ended up with a 10-per-cent white minority that was kept in ghettos and spoke white English, you'd find the same problems in reverse. People would be saying, 'Why can't whites learn good black English?' We spend all our time in school learning 'good' and 'bad' grammar and can't see that it's an historical accident that white English is called the best." (So help me, I copied that right.)

IT'S not generally known, but an Ebonics glossary was compiled in the 1920s by an amateur linguist who later became famous as "J.R.M." Ring a bell? Hint: His initials have appeared in print more times than any other set of initials in the history of mankind, second only to "I.N.R.I.," always with the word "To" in front of them. Now can you guess his identity?

Okay, I'll tell you. J.R.M. was John Robert Marsh, and his initials appear on the dedication page of his wife's book, *Gone with the Wind*. He got into Ebonics when Margaret Mitchell needed to differentiate between the speech of house servants and the speech of field hands. Marsh drove all over Georgia talking to blacks and taking notes until he had a glossary that enabled his wife to write her precision dialect scenes. You can read about it in a 1993 book I reviewed, *Margaret Mitchell and John Marsh: The Love Story behind Gone with the Wind*, by Marianne Walker, who located the glossary. I offer this as a belated Kwanzaa present to the Oakland school board. □

Miss King is the author of The Florence King Reader *and other books.*

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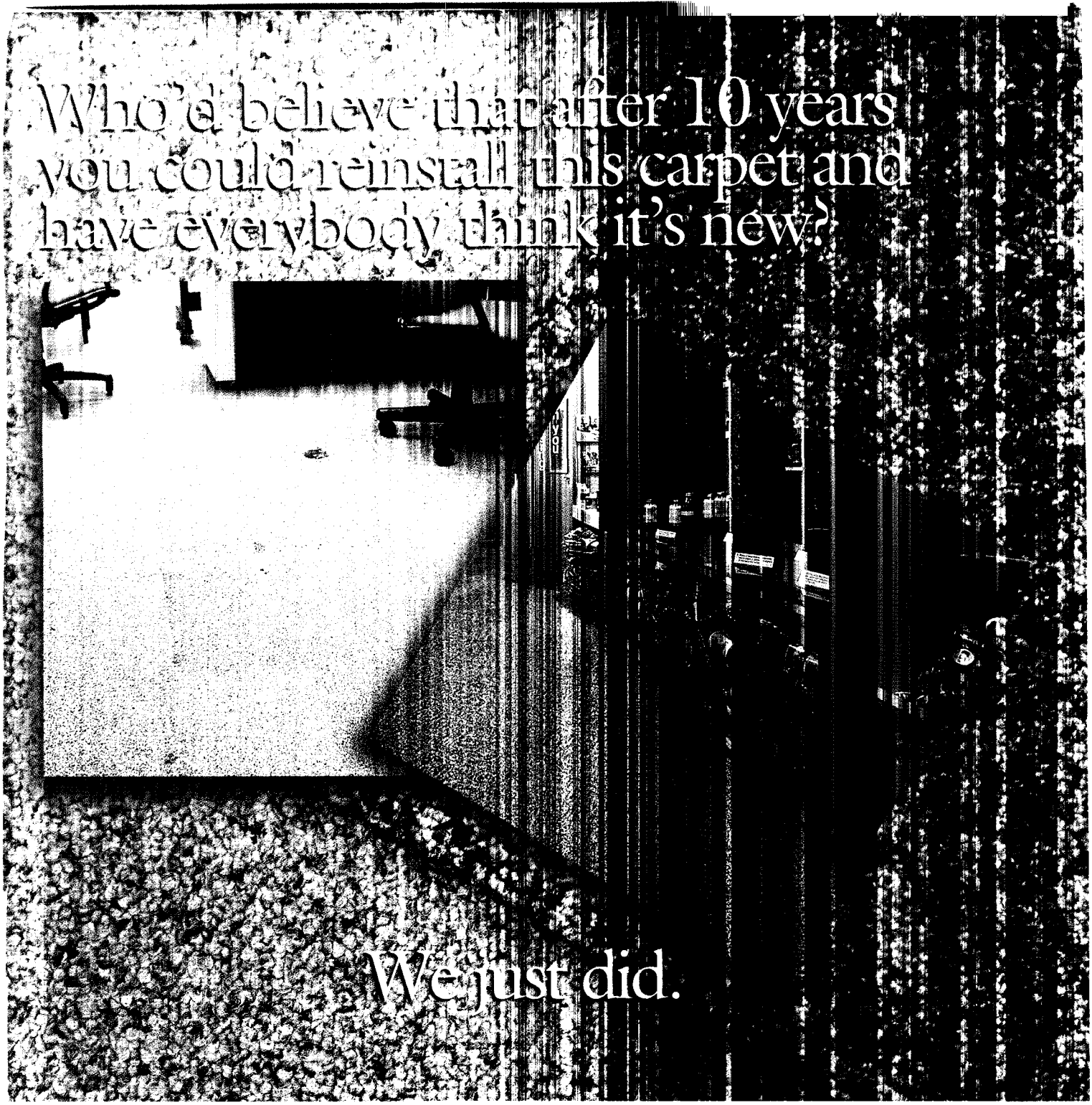

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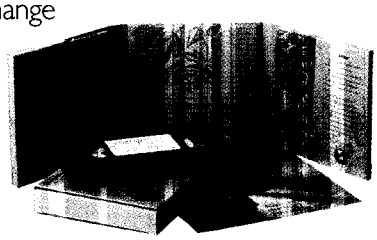

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